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WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, March 12, 2013
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 612, 619, 620, and 630

RIN 3052–AC41

Compensation, Retirement Programs, and Related Benefits

AGENCY: Farm Credit Administration.

ACTION: Notice of petition for regulatory change and request for comment.

SUMMARY: On December 4, 2012, the Farm Credit Council (Council) filed a Petition for Regulatory Change (Petition) with the Farm Credit Administration (FCA, we, or our) on behalf of its Farm Credit System (System) members. The Council requested in the Petition that we repeal the provisions of the recently effective final rule regarding ''Compensation, Retirement Programs, and Related Benefits,'' that require a non-binding, advisory vote on senior officer compensation. We are publishing the Petition and soliciting comments on the merits of the Petition.

DATES: Comments on this notice of petition must be received on or before April 22, 2013.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Email:* Send an email to *reg-comm@fca.gov.*
- *FCA Web site: http://www.fca.gov.* Select ''Public Commenters,'' then ''Public Comments,'' and follow the directions for ''Submitting a Comment.''
- *Mail:* Barry F. Mardock, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of all comments we receive at our office in McLean, Virginia or on our Web site at *http://www.fca.gov.* Once you are in the Web site, select ''Public Commenters,'' then ''Public Comments,'' and follow the directions for ''Reading Submitted Public Comments.'' We will show your comments as submitted, including any supporting data provided, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT:

Deborah Wilson, Senior Accountant, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4414, TTY (703) 883–4434, or

Laura McFarland, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

I. Background

On October 3, 2012, the FCA issued a final rule amending our regulations in parts 611, 612, 619, and 620 regarding senior officer compensation disclosures and related topics.[1] The rule was effective December 27, 2012.[2] One provision of the rule requires that Farm Credit banks and associations hold non-binding, advisory votes on senior officer compensation.[3] In accordance with the rule, associations must hold a vote on senior officer compensation when 5 percent of the voting stockholders petition for the vote. Also, associations and Farm Credit banks must hold a vote on chief executive officer (CEO) compensation, senior officer compensation, or both if compensation increases by 15 percent or more from the previous reporting period. On November 30, 2012, the FCA Board delayed the baseline year for the non-binding, advisory vote on increases in compensation to 2013.

Comments received on the non-binding, advisory vote during the rulemaking process objected to the provisions, but offered no alternative except that the FCA not finalize the provision. In the final rulemaking, we considered all comments received, made modifications to the proposed provision, but declined to withdraw the provision. We explained in the final rule that the intent of the provision is to further the public policy mission of the System, which includes promoting shareholder involvement in the management, control, and use of System institutions. Also, we explained that drawing the shareholders' attention to a matter through advisory voting was relevant to the core principle of System institutions being member-owned.

II. The Petition

Interested parties have the right to petition a federal agency to issue, amend, or repeal regulations.[4] On December 4, 2012, the Council filed a Petition requesting that we repeal the provisions of the final rule regarding ''Compensation, Retirement Programs, and Related Benefits,'' that require a non-binding, advisory vote on senior officer compensation contained in §§ 611.360 and 611.410.

The Petition as filed with the FCA reads, in its entirety, as follows:

Petition for Regulatory Change Approved by The Farm Credit Council Board of Directors

December 4, 2012

On behalf of our membership, the board of directors of The Farm Credit Council hereby petitions the Farm Credit Administration (''FCA'' or ''Agency'') pursuant to 5 U.S.C. 553(e) to undertake a rulemaking that would revise portions of the recently adopted Compensation Disclosure Final Rule (the ''Rule''), 77 FR 60582 (Oct. 3,2012). We are asking that the Agency repeal the sections of the rule requiring advisory votes based on increases in compensation, as well as advisory votes based on petitions, pending the enactment into law of legislation that would specifically require such ''say on pay'' votes for Farm Credit System institutions.

As the Agency noted in adopting the Rule, it received 458 comment letters on the proposed rule (and 99 on the Advanced Notice of Proposed Rulemaking), none of which supported the provisions related to the ''say on pay'' requirements in the Rule. We noted in our comment letter on the Proposed Rule that the System is exempt from the provisions in Dodd-Frank requiring ''say on pay.'' We also noted that unlike the publicly-traded, SEC registered companies that are required to hold such votes, the System has no employees who serve on their institution's board of directors or compensation committees, and that System institutions do not provide any compensation in the form of stock or stock options.

The ''say on pay'' requirements of the Rule go beyond those applicable to publicly traded companies by mandating a shareholder vote

[1] *See* 77 FR 60582.

[2] *See* 77 FR 76215.

[3] 12 CFR 611.360 and 611.410.

[4] 5 U.S.C. 553(e).

triggered by a specific change in compensation levels. We are aware of no precedent for this approach in corporate law or in practice. This requirement directly undermines the FCA supported concept of incentive compensation programs tied to performance. It risks System institutions either deemphasizing or eliminating incentive based programs that result in appropriate compensation volatility. Requiring ''say on pay'' votes when incentive compensation plans operate as intended—by reducing pay when performance does not meet standard and then rewarding recovery—is inconsistent with creating the optimum incentives for performance that excels.

The Rule is a precedent setting change that involves shareholders directly in the management of their institution. The Agency acknowledged in the Rule's preamble that ''the election of the board of directors by members has been the primary means for member participation in the management of their institution.'' The Agency identifies no recent change in the Farm Credit Act justifying a change in policy towards direct shareholder management. By adopting this change in direction in the context of ''say on pay,'' the Agency has obfuscated the full implication of the basic shift it has made. The Agency states that ''[w]e encourage institutions to expand shareholder votes * * *,'' implying that institutions are encouraged to consider shareholder votes on all types of operational issues. We believe history has shown that the System is well served by a policy that allows shareholders to exercise their ownership role through the election of the board of directors, and allows the elected board to carry out its responsibilities on behalf of shareholders. Changing this policy and the long-standing precedent of clear director responsibility as the representatives of shareholders is ill considered and should only be accomplished following a far more extensive examination of its implications.

The Agency cites the Farm Credit Banks and Associations Safety and Soundness Act of 1992 as encouraging directly shareholder ''involvement in the compensation practices of their institutions.'' Our review of the 1992 Act and its legislative history identified no language suggesting that it was intended to achieve direct shareholder ''involvement'' in the compensation practices of System institutions. The 1992 Act simply mandated that the Agency conduct a review of the disclosure requirements that were required of the System at that time and to amend its regulations within a year of the enactment of the legislation to address any deficiencies found some twenty years ago. Nothing in that law suggested that shareholders should vote on compensation practices, nor did the Agency's review conducted pursuant to this legislation identify this as an appropriate response to the legislation. To invoke that law today as the basis for a new say on pay requirement is inappropriate.

We also are very troubled by language in the preamble of the regulation that states: ''As with other laws not directly involving the System, we consider the goals and objectives of those laws for applicability to the System.'' While we respect and support the authority of the Agency to regulate and oversee the safety and soundness and the mission of the Farm Credit System, it is essential that the Agency respect the legal boundaries that Congress establishes for it. It is not the role or right of the Agency to arbitrarily apply to the Farm Credit System laws that do not directly involve the System, simply because the Agency believes the law should have applied to the System. It is up to the Congress to establish public policy in this manner. When the Congress does not involve the System in a law, the Agency must not do so on its own initiative. Congress made clear that the FCA board has the responsibility to recommend legislative changes to the Congress from time to time (Sec. 5.17(a)(3)). Nowhere does the Act state that FCA can or should apply laws to the System not directly involving the System.

We would suggest that if the Agency believes that the Farm Credit System should be subject to say on pay requirements, the Agency should develop a comprehensive legislative proposal to accomplish this goal and submit it to the Congress for their consideration, as contemplated by Section 5.17(a)(3). Doing so would ensure that appropriate consideration is given to any say on pay requirements and that necessary safeguards are built around such requirements.

Unlike the Dodd-Frank legislation, the regulation does not contain any safeguards for System directors or their institutions from shareholder lawsuits resulting from negative ''say on pay'' votes. The Agency in the preamble of the regulation does discuss briefly the interplay between the fiduciary duties of directors and a say on pay vote. Unfortunately, this discussion provides potential fodder for those who would suggest that a board that ignores the results of an advisory say on pay vote is acting inconsistent with its fiduciary duty. The preamble states in part that ''fiduciary duties require consideration of * * * advisory vote results'' that a board is required to ''document how it used the vote results'' and that the results of advisory votes must be reported to shareholders because of their importance.

Nowhere does the Agency discuss the potential that advisory votes can open boards of directors up to new litigation challenges nor does it address why the Dodd-Frank legislation saw fit to explicitly state that shareholder votes shall not interfere with the fiduciary duties of boards of directors. Even if the FCA were to adopt in a regulation safeguards similar to those of in Dodd-Frank, it is not clear that they would have the same legal standing as statutory protections. Moreover, there is no clear legal standard as to how System institutions and their directors will be judged in terms of exercising their fiduciary duties.

These concerns regarding fiduciary responsibility are particularly troublesome because of the unique characteristics of cooperative directors in contrast to those of publicly traded investor owned companies. In the Proposed Rule, FCA referenced ''cooperative principles'' as a basis for the action. However, comments submitted by several cooperative organizations noted that they were unaware of any such ''principles'', or of any cooperative organization that has adopted a similar ''say on pay'' provision. Directors of cooperatives typically are elected by shareholders in accord with the one-person, one-vote rule, and FCA has directed that these votes occur on that basis. Publicly traded investor owned companies conduct their votes based on ownership interest. Also, most SEC registered companies do not have an independent regulator examining them for safety and soundness and overseeing their operations.

Both the directors and shareholders of System institutions have the benefit of the Agency's oversight. Within this framework, System shareholders, as with other farmer cooperatives, rely on their duly elected directors to establish safe and sound compensation programs. Shareholders simply do not have access to the wealth of information provided directors in general, and the compensation committee in particular, to make informed decisions on the subject, and they do not expect to be asked to make those decisions.

For all of the preceding reasons, we respectfully petition the Agency to modify the regulation to eliminate the advisory vote provisions including those on say on pay. Should the Agency believe that advisory votes are an appropriate policy guidance mechanism for System institutions, especially on compensation as required by the current rule, then the Agency should seek statutory revisions that would establish this requirement while also establishing clear guidance as to how it affects the fiduciary duty of directors. Thank you for your timely consideration of this petition.

Attest:

Kimberly J. Boscia,
Corporate Secretary.

We have received letters in support of the Petition from System institutions. The Petition and the letters may be viewed at our office in McLean, Virginia or on our Web site at *http://www.fca.gov.*

III. Request for Comments

Comments received during the rulemaking process and the letters received in support of the Petition objected to the non-binding, advisory vote provisions, but offered no alternatives. Therefore, we are inviting the public to comment on the Petition and the following question:

What reasonable alternative(s) to the non-binding, advisory vote provisions on senior officer compensation would comparably engage shareholders and provide them greater transparency in and disclosure of their institution's senior officer compensation practices?

Dated: February 11, 2013.

Mary Alice Donner,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 2013–03620 Filed 2–15–13; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2012–0978; Special Conditions No. 25–478–SC]

Special Conditions: Embraer S.A., Model EMB–550 Airplane; Electronic Flight Control System: Control Surface Awareness and Mode Annunciation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Embraer S.A. Model EMB–550 airplane. This airplane will have a novel or unusual design feature(s) associated with the control surface awareness and mode annunciation of the electronic flight control system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* March 21, 2013.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2011; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2009, Embraer S.A. applied for a type certificate for their new Model EMB–550 airplane. The Model EMB–550 airplane is the first of a new family of jet airplanes designed for corporate flight, fractional, charter, and private owner operations. The aircraft has a conventional configuration with low wing and T-tail empennage. The primary structure is metal with composite empennage and control surfaces. The Model EMB–550 airplane is designed for 8 passengers, with a maximum of 12 passengers. It is equipped with two Honeywell HTF7500–E medium bypass ratio turbofan engines mounted on aft fuselage pylons. Each engine produces approximately 6,540 pounds of thrust for normal takeoff. The primary flight controls consist of hydraulically powered fly-by-wire elevators, aileron and rudder, controlled by the pilot or copilot sidestick.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Embraer S.A. must show that the Model EMB–550 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–127.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model EMB–550 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model EMB–550 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Model EMB–550 airplane will incorporate the following novel or unusual design features: The Embraer S.A. Model EMB–550 airplane will have a fly-by-wire electronic flight control system and no direct coupling from the flightdeck controller to the control surface. As a result, the pilot is not aware of the actual control surface position as envisioned when part 25 was written.

Discussion

These special conditions propose that the flightcrew receive a suitable flight control position annunciation when a flight condition exists in which nearly full surface authority (not crew-commanded) is being used. Suitability of such a display must take into account that some pilot-demanded maneuvers (e.g., rapid roll) are necessarily associated with intended full performance, which may saturate the surface. Therefore, simple alerting systems function in both intended and unexpected control-limiting situations. As a result, they must be properly balanced between providing necessary crew awareness and being a potential nuisance to the flightcrew. A monitoring system that compares airplane motion and surface deflection with the demand of the pilot sidestick controller could help reduce nuisance alerting.

These special conditions also address flight control system mode annunciation. It proposes suitable mode annunciation be provided to the flightcrew for events that significantly change the operating mode of the system but do not merit the classic ''failure warning.''

These special conditions establish a level of safety equivalent to that provided by a conventional flight control system and that contemplated in existing regulations.

Discussion of Comments

Notice of proposed special conditions No. SC–12–25 for the Embraer S.A. EMB–550 airplanes was published in the **Federal Register** on September 27, 2012 (77 FR 57039). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Model EMB–550 airplane. Should Embraer S.A. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Model EMB–550 airplanes.

1. Electronic Flight Control System: Control Surface Awareness and Mode Annunciation. In addition to the requirements of §§ 25.143, 25.671, and

25.672, the following requirements apply:

a. The system design must ensure that the flightcrew is made suitably aware whenever the primary control means nears the limit of control authority.

Note: The term ''suitably aware'' indicates annunciations provided to the flightcrew are appropriately balanced between nuisance and that necessary for crew awareness.

b. If the design of the flight control system has multiple modes of operation, a means must be provided to indicate to the flightcrew any mode that significantly changes or degrades the normal handling or operational characteristics of the airplane.

Issued in Renton, Washington, on February 12, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–03656 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2012–1216; Special Conditions No. 25–479–SC]

Special Conditions: Embraer S.A., Model EMB–550 Airplane, Limit Pilot Forces for Sidestick Control

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions for the Embraer S.A. Model EMB–550 airplane. This airplane will have a novel or unusual design feature, specifically sidestick controllers designed to be operated with only one hand. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* March 21, 2013.

FOR FURTHER INFORMATION CONTACT: Todd Martin, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98057–3356; telephone 425–227–1178; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2009, Embraer S.A. applied for a type certificate for their new Model EMB–550 airplane. The Model EMB–550 airplane is the first of a new family of jet airplanes designed for corporate flight, fractional, charter, and private owner operations. The aircraft has a conventional configuration with low wing and T-tail empennage. The primary structure is metal with composite empennage and control surfaces. The Model EMB–550 airplane is designed for 8 passengers, with a maximum of 12 passengers. It is equipped with two Honeywell HTF7500–E medium bypass ratio turbofan engines mounted on aft fuselage pylons. Each engine produces approximately 6,540 pounds of thrust for normal takeoff. The primary flight controls consist of hydraulically powered fly-by-wire elevators, ailerons, and rudder, controlled by the pilot or copilot sidestick.

Current regulations reference pilot effort loads for the cockpit pitch and roll controls that are based on a two-handed effort. The cockpit roll and pitch controls for the Model EMB–550 airplane are designed for one-handed operation.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Embraer S.A. must show that the Model EMB–550 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–127 thereto.

If the Administrator finds that the applicable airworthiness regulations 14 CFR part 25 do not contain adequate or appropriate safety standards for the Model EMB–550 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model EMB–550 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Embraer S.A. Model EMB–550 airplane will incorporate the following novel or unusual design features: The Model EMB–550 airplane is equipped with a sidestick controller instead of a conventional wheel or control stick. This kind of controller is designed to be operated using only one hand. The requirement of 14 CFR 25.397(c), which defines limit pilot forces and torques for conventional wheel or stick controls, is not appropriate for a sidestick controller. Therefore, a special condition is necessary to specify the appropriate loading conditions for this kind of controller.

Discussion

The Embraer S.A. Model EMB–550 airplane is equipped with a sidestick controller instead of a conventional wheel or control stick. This kind of controller is designed to be operated using only one hand. The requirement of 14 CFR 25.397(c), which defines limit pilot forces and torques for conventional wheel or stick controls, is not appropriate for a sidestick controller, because pilot forces are applied to sidestick controllers with only the wrist, not arms. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of proposed special conditions No. 25–12–13–SC for the Embraer S.A. Model EMB–550 airplanes was published in the **Federal Register** on November 20, 2012, (77 FR 69571). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Model EMB–550 airplane. Should Embraer S.A. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model

of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Embraer S.A. Model EMB–550 airplanes.

■ 1. Limit Pilot Forces for Sidestick Control.

In lieu of the pilot forces specified in § 25.397(c):

■ (a) The limit pilot forces are:

Pitch	Roll
Nose up 200 pounds force (lbf).	Nose left 100 lbf
Nose down 200 lbf	Nose right 100 lbf

■ (b) For all other components of the sidestick control assembly, excluding the internal components of the electrical sensor assemblies, to avoid damage as a result of an in-flight jam.

Pitch	Roll
Nose up 125 lbf	Nose left 50 lbf
Nose down 125 lbf	Nose right 50 lbf

Issued in Renton, Washington, on February 12, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2012–1241; Special Conditions No. 25–480–SC]

Special Conditions: Embraer S.A., Model EMB–550 Airplane; Design Roll Maneuver for Electronic Flight Controls

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Embraer S.A. Model EMB–550 airplane. This airplane will have a novel or unusual design feature(s) associated with the design roll maneuver for electronic flight controls, specifically an electronic flight control system that provides control of the aircraft through pilot inputs to the flight computer. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* March 21, 2013.

FOR FURTHER INFORMATION CONTACT: Todd Martin, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98057–3356; telephone 425–227–1178; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2009, Embraer S.A. applied for a type certificate for their new Model EMB–550 airplane. The Model EMB–550 airplane is the first of a new family of jet airplanes designed for corporate flight, fractional, charter, and private owner operations. The aircraft has a conventional configuration with low wing and T-tail empennage. The primary structure is metal with composite empennage and control surfaces. The Model EMB–550 airplane is designed for 8 passengers, with a maximum of 12 passengers. It is equipped with two Honeywell HTF7500–E medium bypass ratio turbofan engines mounted on aft fuselage pylons. Each engine produces approximately 6,540 pounds of thrust for normal takeoff. The primary flight controls consist of hydraulically powered fly-by-wire elevators, ailerons, and rudder, controlled by the pilot or copilot sidestick.

The flight control system for the Model EMB–550 airplane does not have a direct mechanical link or a linear gain between the airplane flight control surface and the pilot's cockpit control device, which is not accounted for in Title 14, Code of Federal Regulations (14 CFR) 25.349(a). Instead, a flight control computer commands the airplane flight control surfaces, based on input received from the cockpit control device. The pilot input is modified by the flight control computer before the command is given to the flight control surface.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Embraer S.A. must show that the Model EMB–550 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–127 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model EMB–500 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model EMB–550 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Embraer S.A. Model EMB–550 airplane will incorporate the following novel or unusual design features: The Model EMB–550 airplane is equipped with an electronic flight control system that provides control of the aircraft through pilot inputs to the flight computer. Current part 25 airworthiness regulations account for ''control laws'' where aileron deflection is proportional to control stick deflection. They do not address any nonlinearities, i.e., situations where output does not change in the same proportion as input, or other effects on aileron actuation that may be caused by electronic flight controls.

Discussion

These special conditions differ from current regulatory requirements in that they require that the roll maneuver result from defined movements of the cockpit roll control as opposed to defined aileron deflections. Also, these special conditions require an additional

load condition at design maneuvering speed (V_A), in which the cockpit roll control is returned to neutral following the initial roll input.

These special conditions differ from similar special conditions previously issued on this topic. These special conditions are limited to the roll axis only, whereas other special conditions also included pitch and yaw axes. Special conditions are no longer needed for the yaw axis because 14 CFR 25.351 was revised at Amendment 25–91 to take into account effects of an electronic flight control system. No special conditions are needed for the pitch axis because the method that Embraer S.A. proposed for the pitch maneuver takes into account effects of an electronic flight control system. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of proposed special conditions No. 25–12–15–SC for the Embraer S.A. EMB–550 airplanes was published in the **Federal Register** on November 26, 2012 (77 FR 70384). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Model EMB–550 airplane. Should Embraer S.A. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model EMB–550 of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Embraer S.A. Model EMB–550 airplanes.

1. Design Roll Maneuver for Electronic Flight Controls.

In lieu of compliance to 14 CFR 25.349(a), the Embraer S.A. Model EMB–550 airplane must comply with the following.

The following conditions, speeds, and cockpit roll control motions (except as the motions may be limited by pilot effort) must be considered in combination with an airplane load factor of zero and of two-thirds of the positive maneuvering factor used in design. In determining the resulting control surface deflections, the torsional flexibility of the wing must be considered in accordance with 14 CFR 25.301(b).

(a) Conditions corresponding to steady rolling velocities must be investigated. In addition, conditions corresponding to maximum angular acceleration must be investigated for airplanes with engines or other weight concentrations outboard of the fuselage. For the angular acceleration conditions, zero rolling velocity may be assumed in the absence of a rational time history investigation of the maneuver.

(b) At V_A, sudden movement of the cockpit roll control up to the limit is assumed. The position of the cockpit roll control must be maintained until a steady roll rate is achieved and then must be returned suddenly to the neutral position.

(c) At V_C, the cockpit roll control must be moved suddenly and maintained so as to achieve a roll rate not less than that obtained in paragraph (b).

(d) At V_D, the cockpit roll control must be moved suddenly and maintained so as to achieve a roll rate not less than one third of that obtained in paragraph (b).

Issued in Renton, Washington, on February 12, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2012–1246; Special Conditions No. 25–481–SC]

Special Conditions: Embraer S.A., Model EMB–550 Airplane; Interaction of Systems and Structures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Embraer S.A. Model EMB–550 airplane. This airplane will have a novel or unusual design feature(s) associated with the interaction of systems and structures. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective date:* March 21, 2013.

FOR FURTHER INFORMATION CONTACT: Todd Martin, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1178; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2009, Embraer S.A. applied for a type certificate for their new Model EMB–550 airplane. The Model EMB–550 airplane is the first of a new family of jet airplanes designed for corporate flight, fractional, charter, and private owner operations. The aircraft has a conventional configuration with low wing and T-tail empennage. The primary structure is metal with composite empennage and control surfaces. The Model EMB–550 airplane is designed for 8 passengers, with a maximum of 12 passengers. It is equipped with two Honeywell HTF7500–E medium bypass ratio turbofan engines mounted on aft fuselage pylons. Each engine produces approximately 6,540 pounds of thrust for normal takeoff. The primary flight controls consist of hydraulically powered fly-by-wire elevators, aileron and rudder, controlled by the pilot or copilot sidestick.

The Model Embraer EMB–550 airplane is equipped with systems that, directly or as a result of failure or malfunction, affect its structural performance. Current regulations do not take into account loads for the airplane due to the effects of systems on structural performance including normal operation and failure conditions with strength levels related to probability of occurrence. Special conditions are needed to account for these features.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17,

Embraer S.A. must show that the Model EMB–550 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–127 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model EMB–550 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Embraer S.A. Model EMB–550 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Embraer S.A. Model EMB–550 airplane is equipped with systems that, directly or as a result of failure or malfunction, affect its structural performance. Current regulations do not take into account loads for the airplane due to the effects of systems on structural performance including normal operation and failure conditions with strength levels related to probability of occurrence. Special conditions are needed to account for these features.

These special conditions define criteria to be used in the assessment of the effects of these systems on structures. The general approach of accounting for the effect of system failures on structural performance would be extended to include any system in which partial or complete failure, alone or in combination with other system partial or complete failures, would affect structural performance.

Discussion

These airplanes are equipped with systems that, directly or as a result of failure or malfunction, affect its structural performance. Current regulations do not take into account loads for the aircraft due to the effects of systems on structural performance including normal operation and failure conditions with strength levels related to probability of occurrence. These special conditions define criteria to be used in the assessment of the effects of these systems on structures.

Special conditions have been applied on past airplane programs to require consideration of the effects of systems on structures. The regulatory authorities and industry developed standardized criteria in the Aviation Rulemaking Advisory Committee (ARAC) forum based on the criteria defined in Advisory Circular 25.672, *Active Flight Controls,* dated November 11, 1983. The ARAC recommendations have been incorporated in European Aviation Safety Agency (EASA) Certification Specifications (CS) 25.302 and CS 25 Appendix K. FAA rulemaking on this subject is not complete, thus the need for the special conditions.

The proposed special conditions are similar to those previously applied to other airplane models and to CS 25.302. The major differences between these proposed special conditions and the current CS 25.302 are as follows:

1. Both these special conditions and CS 25.302 specify the design load conditions to be considered. In paragraphs 2(a)(1) and 2(b)(2)(i) of these special conditions, the special conditions clarify that, in some cases, different load conditions are to be considered due to other special conditions or equivalent level of safety findings.

2. Paragraph 2(b)(2)(i) of these special conditions include the additional ground-handling conditions of §§ 25.493(d) and 25.503. These conditions are added in case the Embraer S.A. Model EMB–550 airplane has systems that affect braking and pivoting.

3. Both CS 25.302 and paragraph (2)(d) of these special conditions allow consideration of the probability of being in a dispatched configuration when assessing subsequent failures and potential ''continuation of flight'' loads. However, these special conditions also allow using probability when assessing failures that induce loads at the ''time of occurrence,'' whereas CS 25.302 does not.

Discussion of Comments

Notice of proposed special conditions No. 25–12–16–SC for the Embraer S.A. Model EMB–550 airplanes was published in the **Federal Register** on November 28, 2012, (77 FR 70941). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Embraer S.A. Model EMB–550 airplane. Should Embraer S.A. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Embraer S.A. Model EMB–550 airplanes to address the effects of systems on structures.

1. General interaction of systems and structures.

For airplanes equipped with systems that affect structural performance, either directly or as a result of a failure or malfunction, the influence of these systems and their failure conditions must be taken into account when showing compliance with the requirements of Title 14, Code of Federal Regulations (14 CFR) part 25 subparts C and D.

The following criteria must be used for showing compliance with these special conditions for airplanes equipped with flight control systems, autopilots, stability augmentation systems, load alleviation systems, fuel management systems, and other systems that either directly or as a result of failure or malfunction affect structural performance. If these special conditions are used for other systems, it may be necessary to adapt the criteria to the specific system.

(a) The criteria defined herein only address the direct structural consequences of the system responses and performances and cannot be considered in isolation but should be included in the overall safety evaluation of the airplane. These criteria may in some instances duplicate standards already established for this evaluation. These criteria are only applicable to structure in which failure could prevent continued safe flight and landing. Specific criteria that define acceptable limits on handling characteristics or stability requirements when operating in the system degraded or inoperative mode are not provided in these special conditions.

(b) The following definitions are applicable to these special conditions.

(1) Structural performance: Capability of the airplane to meet the structural requirements of 14 CFR part 25.

(2) Flight limitations: Limitations that can be applied to the airplane flight conditions following an in-flight occurrence and that are included in the flight manual (e.g., speed limitations and avoidance of severe weather conditions).

(3) Operational limitations: Limitations, including flight limitations, that can be applied to the airplane operating conditions before dispatch (e.g., fuel, payload, and Master Minimum Equipment List limitations).

(4) Probabilistic terms: The probabilistic terms (i.e., probable, improbable, and extremely improbable) used in these special conditions are the same as those used in § 25.1309.

(5) Failure condition: The term ''failure condition'' is the same as that used in § 25.1309. However, these special conditions apply only to system failure conditions that affect the structural performance of the airplane (e.g., system failure conditions that induce loads, change the response of the airplane to inputs such as gusts or pilot actions, or lower flutter margins).

2. Effect on Systems and Structures. The following criteria are used in determining the influence of a system and its failure conditions on the airplane structure.

(a) System fully operative. With the system fully operative, the following apply:

(1) Limit loads must be derived in all normal operating configurations of the system from all the limit conditions specified in Subpart C (or defined by special condition or equivalent level of safety in lieu of those specified in Subpart C), taking into account any special behavior of such a system or associated functions or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

(2) The airplane must meet the strength requirements of part 25 (static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of nonlinearities must be investigated beyond limit conditions to ensure the behavior of the system presents no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that will not allow it to exceed those limit conditions.

(3) The airplane must meet the aeroelastic stability requirements of § 25.629.

(b) System in the failure condition. For any system failure condition not shown to be extremely improbable, the following apply:

(1) At the time of occurrence. Starting from 1-*g* level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure.

(i) For static strength substantiation, these loads, multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure, are ultimate loads to be considered for design. The factor of safety (FS) is defined in Figure 1.

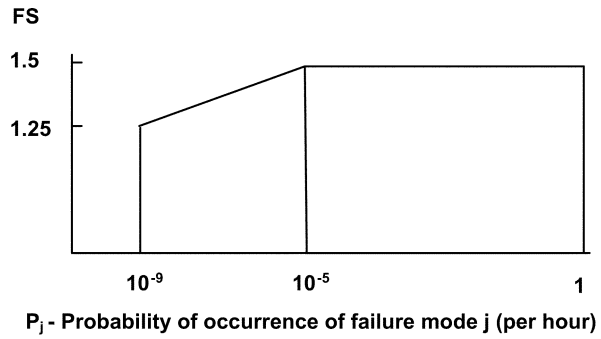

Figure 1: Factor of safety at the time of occurrence

(ii) For residual strength substantiation, the airplane must be able to withstand two-thirds of the ultimate loads defined in paragraph 2(b)(1)(i) of these special conditions. For pressurized cabins, these loads must be combined with the normal operating differential pressure.

(iii) Freedom from aeroelastic instability must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions that result in speeds beyond V_C/M_C, freedom from aeroelastic instability must be shown to increased speeds, so that the margins intended by § 25.629(b)(2) are maintained.

(iv) Failures of the system that result in forced structural vibrations (e.g., oscillatory failures) must not produce loads that could result in detrimental deformation of primary structure.

(2) For the continuation of the flight. For the airplane, in the system failed state and considering any appropriate reconfiguration and flight limitations, the following apply:

(i) The loads derived from the following conditions (or conditions defined by special conditions or equivalent level of safety in lieu of the

following special conditions) at speeds up to V_C/M_C, or the speed limitation prescribed for the remainder of the flight, must be determined:

(A) The limit symmetrical maneuvering conditions specified in §§ 25.331 and 25.345.

(B) The limit gust and turbulence conditions specified in §§ 25.341 and 25.345.

(C) The limit rolling conditions specified in § 25.349 and the limit unsymmetrical conditions specified in §§ 25.367, 25.427(b), and 25.427(c).

(D) The limit yaw maneuvering conditions specified in § 25.351.

(E) The limit ground loading conditions specified in §§ 25.473, 25.491, 25.493(d) and 25.503.

(ii) For static strength substantiation, each part of the structure must be able to withstand the loads in paragraph 2(b)(2)(i) of these special conditions multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety (FS) is defined in Figure 2.

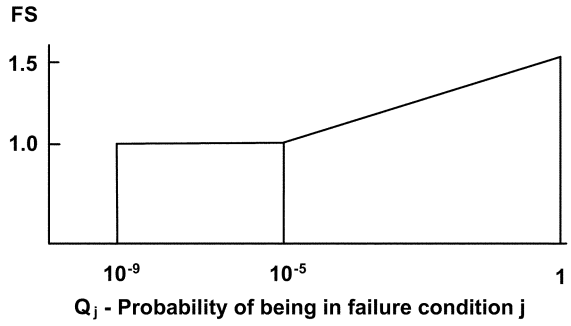

Figure 2: Factor of safety for continuation of flight

$Q_j = (T_j)(P_j)$ where:

T_j = Average time spent in failure condition j (in hours)

P_j = Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour then a 1.5 factor of safety must be applied to all limit load conditions specified in Subpart C.

(iii) For residual strength substantiation, the airplane must be able to withstand two-thirds of the ultimate loads defined in paragraph 2(b)(2)(ii) of the special conditions. For pressurized cabins, these loads must be combined with the normal operating differential pressure.

(iv) If the loads induced by the failure condition have a significant effect on fatigue or damage tolerance then their effects must be taken into account.

(v) Freedom from aeroelastic instability must be shown up to a speed determined from Figure 3. Flutter clearance speeds V′ and V″ may be based on the speed limitation specified for the remainder of the flight using the margins defined by § 25.629(b).

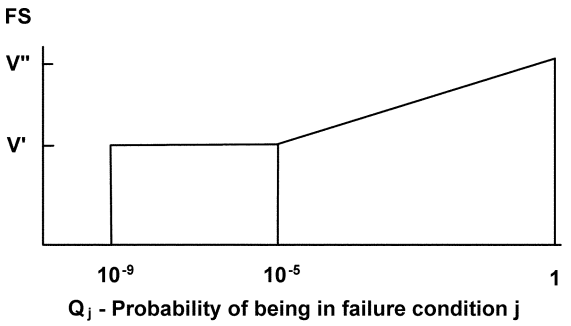

Figure 3: Clearance speed

V′ = Clearance speed as defined by § 25.629(b)(2).

V″ = Clearance speed as defined by § 25.629(b)(1).

$Q_j = (T_j)(P_j)$ where:

T_j = Average time spent in failure condition j (in hours)

P_j = Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then the flutter clearance speed must not be less than V″.

(vi) Freedom from aeroelastic instability must also be shown up to V′ in Figure 3 above, for any probable system failure condition combined with any damage required or selected for investigation by § 25.571(b).

(3) Consideration of certain failure conditions may be required by other sections of 14 CFR part 25 regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than 10^{-9}, criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

(c) Failure indications. For system failure detection and indication, the following apply:

(1) The system must be checked for failure conditions, not extremely improbable, that degrade the structural

capability below the level required by 14 CFR part 25 or significantly reduce the reliability of the remaining system. As far as reasonably practicable, the flightcrew must be made aware of these failures before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of detection and indication systems to achieve the objective of this requirement. These certification maintenance requirements must be limited to components that are not readily detectable by normal detection and indication systems and where service history shows that inspections will provide an adequate level of safety.

(2) The existence of any failure condition, not extremely improbable, during flight that could significantly affect the structural capability of the airplane and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the flightcrew. For example, failure conditions that result in a factor of safety between the airplane strength and the loads of Subpart C below 1.25, or flutter margins below V″, must be signaled to the flightcrew during flight.

(d) Dispatch with known failure conditions. If the airplane is to be dispatched in a known system failure condition that affects structural performance, or affects the reliability of the remaining system to maintain structural performance, then the provisions of these special conditions must be met, including the provisions of paragraph 2(a) for the dispatched condition, and paragraph 2(b) for subsequent failures. Expected operational limitations may be taken into account in establishing P_j as the probability of failure occurrence for determining the safety margin in Figure 1 of these special conditions. Flight limitations and expected operational limitations may be taken into account in establishing Q_j as the combined probability of being in the dispatched failure condition and the subsequent failure condition for the safety margins in Figures 2 and 3 of these special conditions. These limitations must be such that the probability of being in this combined failure state and then subsequently encountering limit load conditions is extremely improbable. No reduction in these safety margins is allowed if the subsequent system failure rate is greater than 10^{-3} per hour.

Issued in Renton, Washington, on February 12, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–03678 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2012–1218; Special Conditions No. 25–483–SC]

Special Conditions: Embraer S.A., Model EMB–550 Airplane; Electronic Flight Control System: Lateral-Directional and Longitudinal Stability and Low Energy Awareness

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Embraer S.A. Model EMB–550 airplane. This airplane will have a novel or unusual design feature(s) associated with an electronic flight control system with respect to lateral-directional and longitudinal stability and low energy awareness. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective date:* March 21, 2013.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airplane and Flight Crew Interface Branch, ANM–111 Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2011; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2009, Embraer S.A. applied for a type certificate for their new Model EMB–550 airplane. The Model EMB–550 airplane is the first of a new family of jet airplanes designed for corporate flight, fractional, charter, and private owner operations. The aircraft has a conventional configuration with low wing and T-tail empennage. The primary structure is metal with composite empennage and control surfaces. The Model EMB–550 airplane is designed for 8 passengers, with a maximum of 12 passengers. It is equipped with two Honeywell HTF7500–E medium bypass ratio turbofan engines mounted on aft fuselage pylons. Each engine produces approximately 6,540 pounds of thrust for normal takeoff. The primary flight controls consist of hydraulically powered fly-by-wire elevators, aileron and rudder, controlled by the pilot or copilot sidestick.

The Embraer S.A. Model EMB–550 airplane has a flight control design feature within the normal operational envelope in which sidestick deflection in the roll axis commands roll rate. As a result, the stick force in the roll axis will be zero (neutral stability) during the straight, steady sideslip flight maneuver required by Title 14, Code of Federal Regulations (14 CFR) 25.177(c) and will not be ''substantially proportional to the angle of sideslip'' as required by the rule.

The longitudinal flight control laws for the Model EMB–550 airplane provide neutral static stability within the normal operational envelope; therefore, the airplane design does not comply with the static longitudinal stability requirements of §§ 25.171, 25.173, and 25.175.

Static longitudinal stability provides awareness to the flightcrew of a low energy state (i.e., low speed and thrust at low altitude). Recovery from a low energy state may become hazardous when associated with a low altitude and performance-limiting conditions. These low energy situations must therefore be avoided, and pilots must be given adequate cues when approaching such situations.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Embraer S.A. must show that the Model EMB–550 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–127 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model EMB–550 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model EMB–550 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR part 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Model EMB–550 airplane will incorporate the following novel or unusual design features:

(1) *Lateral-Directional Static Stability:* The electronic flight control system on the Model EMB–550 airplane contains fly-by-wire control laws that can result in neutral lateral-directional static stability; therefore, the conventional requirements in §§ 25.171, 25.173, 25.175, and 25.177 are not met.

Positive static directional stability is the tendency to recover from a skid with the rudder free. Positive static lateral stability is the tendency to raise the low wing in a sideslip with the aileron controls free. These control criteria are intended to accomplish all of the following:

- Provide additional cues of inadvertent sideslips and skids through control force changes,
- Ensure that short periods of unattended operation do not result in any significant changes in yaw or bank angle,
- Provide predictable roll and yaw response, and
- Provide an acceptable level of pilot attention and workload to attain and maintain a coordinated turn.

The Flight Test Harmonization Working Group recommended a rule and advisory material change for § 25.177, Static lateral-directional stability, which was adopted at Amendment 25–135 (76 FR 74654, December 1, 2011), effective January 30, 2012. (This amendment is not in the Model EMB–550 certification basis.) That harmonized text formed the basis for these special conditions.

(2) *Longitudinal Static Stability:* Static longitudinal stability on airplanes with mechanical links to the pitch control surface means that a pull force on the controller will result in a reduction in speed relative to the trim speed, and a push force will result in higher than trim speed. Longitudinal stability is required by the regulations for the following reasons:

- Speed change cues are provided to the pilot through increased and decreased forces on the controller.
- Short periods of unattended control of the airplane do not result in significant changes in attitude, airspeed or load factor.
- A predictable pitch response is provided to the pilot.
- An acceptable level of pilot attention (workload) to attain and maintain trim speed and altitude is provided to the pilot.
- Longitudinal stability provides gust stability.

The pitch control movement of the sidestick on the Model EMB–550 airplane is designed to be a normal load factor or *g* command that results in an initial movement of the elevator surface to attain the commanded load factor that's then followed by integrated movement of the stabilizer and elevator to automatically trim the airplane to a neutral, 1*g,* stick-free stability. The flight path commanded by the initial sidestick input will remain, stick-free, until the pilot gives another command. This control function is applied during ''normal'' control law within the speed range from initiation of the angle of attack protection limit, to V_{MO}/M_{MO}. Once outside this speed range, the control laws introduce the conventional longitudinal static stability as described above.

As a result of neutral static stability, the Model EMB–550 airplane does not meet the 14 CFR part 25 requirements for static longitudinal stability.

(3) *Low Energy Awareness:* Past experience on airplanes fitted with a flight control system providing neutral longitudinal stability shows there is insufficient feedback cues to the pilot of excursion below normal operational speeds. The maximum angle of attack protection system limits the airplane angle of attack and prevents stall during normal operating speeds, but this system is not sufficient to prevent stall at low speed excursions below normal operational speeds. Until intervention, there are no stability cues since the airplane remains trimmed. Additionally, feedback from the pitching moment due to thrust variation is reduced by the flight control laws. Recovery from a low speed excursion may become hazardous when the low speed situation is associated with a low altitude and with the engines at low thrust or with performance-limiting conditions.

Discussion

In the absence of positive lateral stability, the curve of lateral control surface deflections against sideslip angle should be in a conventional sense, and reasonably in harmony with rudder deflection during steady heading sideslip maneuvers.

Since conventional relationships between stick forces and control surface displacements do not apply to the ''load factor command'' flight control system on the Model EMB–550 airplane, longitudinal stability characteristics should be evaluated by assessing the airplane handling qualities during simulator and flight test maneuvers appropriate to operation of the airplane. This may be accomplished by using the Handling Qualities Rating Method presented in Appendix 7 of Advisory Circular (AC) 25–7B, *Flight Test Guide,* dated March 29, 2011, or an acceptable alternative method proposed by Embraer S.A. Important considerations are as follows:

- Adequate speed control without creating excessive pilot workload,
- Acceptable high and low speed protection, and
- Providing adequate cues to the pilot of significant speed excursions beyond V_{MO}/M_{MO}, and low speed awareness flight conditions.

The airplane should provide adequate awareness cues to the pilot of a low energy (i.e., a low speed, low thrust, or low height) state to ensure that the airplane retains sufficient energy to recover when flight control laws provide neutral longitudinal stability significantly below the normal operating speeds. This may be accomplished as follows:

- Adequate low speed/low thrust cues at low altitude may be provided by a strong positive static stability force gradient (1 pound per 6 knots applied through the sidestick), or
- The low energy awareness may be provided by an appropriate warning with the following characteristics:
  - It should be unique, unambiguous, and unmistakable.
  - It should be active at appropriate altitudes and in appropriate configurations (e.g., at low altitude, in the approach and landing configurations).
  - It should be sufficiently timely to allow recovery to a stabilized flight condition inside the normal flight envelope while maintaining the desired flight path and without entering the flight controls angle-of-attack protection mode.
  - It should not be triggered during normal operation, including operation in moderate turbulence for recommended maneuvers at recommended speeds.

○ The pilot should only be able to cancel it by achieving a higher energy state.

○ An adequate hierarchy should exist among the warnings so that the pilot is not confused and led to take inappropriate recovery action if multiple warnings occur.

Simulators and flight test should evaluate global energy awareness and ensure that low energy cues are not a nuisance in all take-off and landing altitude ranges for which certification is requested. These evaluations should include all relevant combinations of weight, center of gravity position, configuration, airbrakes position, and available thrust, including reduced and derated take-off thrust operations and engine failure cases. A sufficient number of tests should be conducted to assess the level of energy awareness and the effects of energy management errors. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of proposed special conditions No. 25–12–11–SC for the Embraer S.A. Model EMB–550 airplanes was published in the **Federal Register** on November 20, 2012 (77 FR 69573). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Model EMB–550 airplane. Should Embraer S.A. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Model EMB–550 airplanes.

1. *Electronic Flight Control System:* Lateral-Directional and Longitudinal Stability and Low Energy Awareness. In lieu of the requirements of §§ 25.171, 25.173, 25.175, and 25.177, the following special conditions apply:

a. The airplane must be shown to have suitable static lateral, directional, and longitudinal stability in any condition normally encountered in service, including the effects of atmospheric disturbance. The showing of suitable static lateral, directional, and longitudinal stability must be based on the airplane handling qualities, including pilot workload and pilot compensation, for specific test procedures during the flight test evaluations.

b. The airplane must provide adequate awareness to the pilot of a low energy (e.g., low speed, low thrust, or low height) state when fitted with flight control laws presenting neutral longitudinal stability significantly below the normal operating speeds. ''Adequate awareness'' means warning information must be provided to alert the crew of unsafe operating conditions and to enable them to take appropriate corrective action.

c. The static directional stability (as shown by the tendency to recover from a skid with the rudder free) must be positive for any landing gear and flap position and symmetrical power condition, at speeds from 1.13 V_{SR1}, up to V_{FE}, V_{LE}, or V_{FC}/M_{FC} (as appropriate).

d. The static lateral stability (as shown by the tendency to raise the low wing in a sideslip with the aileron controls free) for any landing gear and wing-flap position and symmetric power condition, may not be negative at any airspeed (except that speeds higher than V_{FE} need not be considered for wing-flaps extended configurations nor speeds higher than V_{LE} for landing gear extended configurations) in the following airspeed ranges:

i. From 1.13 V_{SR1} to V_{MO}/M_{MO}.

ii. From V_{MO}/M_{MO} to V_{FC}/M_{FC}, unless the divergence is –

1. Gradual;

2. Easily recognizable by the pilot; and

3. Easily controllable by the pilot.

e. In straight, steady sideslips over the range of sideslip angles appropriate to the operation of the airplane, but not less than those obtained with one-half of the available rudder control movement (but not exceeding a rudder control force of 180 pounds), rudder control movements and forces must be substantially proportional to the angle of sideslip in a stable sense; and the factor of proportionality must lie between limits found necessary for safe operation. This requirement must be met for the configurations and speeds specified in paragraph (c) of this section.

f. For sideslip angles greater than those prescribed by paragraph (e) of this section, up to the angle at which full rudder control is used or a rudder control force of 180 pounds is obtained, the rudder control forces may not reverse, and increased rudder deflection must be needed for increased angles of sideslip. Compliance with this requirement must be shown using straight, steady sideslips, unless full lateral control input is achieved before reaching either full rudder control input or a rudder control force of 180 pounds; a straight, steady sideslip need not be maintained after achieving full lateral control input. This requirement must be met at all approved landing gear and wing-flap positions for the range of operating speeds and power conditions appropriate to each landing gear and wing-flap position with all engines operating.

Issued in Renton, Washington, on February 12, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–03677 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2012–1215; Special Conditions No. 25–12–482–SC]

Special Conditions: Embraer S.A., Model EMB–550 Airplanes; Flight Envelope Protection: High Speed Limiting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Embraer S.A. Model EMB–550 airplane. This airplane will have a novel or unusual design feature, specifically an electronic flight control system which contains fly-by-wire control laws, including envelope protections, for the overspeed protection and roll limiting function. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the

additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective date:* March 21, 2013.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2011; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2009, Embraer S.A. applied for a type certificate for their new Model EMB–550 airplane. The Model EMB–550 airplane is the first of a new family of jet airplanes designed for corporate flight, fractional, charter, and private owner operations. The aircraft has a conventional configuration with a low wing and T-tail empennage. The primary structure is metal with composite empennage and control surfaces. The Model EMB–550 airplane is designed for 8 passengers, with a maximum of 12 passengers. It is equipped with two Honeywell HTF7500–E medium bypass ratio turbofan engines mounted on aft fuselage pylons. Each engine produces approximately 6,540 pounds of thrust for normal takeoff. The primary flight controls consist of hydraulically powered fly-by-wire elevators, aileron and rudder, controlled by the pilot or copilot sidestick.

The longitudinal control law design of the Embraer S.A. Model EMB–550 airplane incorporates an overspeed protection system in the normal mode. This mode prevents the pilot from inadvertently or intentionally exceeding a speed approximately equivalent to V_{FC} or attaining V_{DF}. Current Title 14, Code of Federal Regulations (14 CFR) part 25 did not envision a high speed limiter that might preclude or modify flying qualities assessments in the overspeed region.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Embraer S.A. must show that the Model EMB–550 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–127 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model EMB–550 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model EMB–550 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Model EMB–550 airplane will incorporate the following novel or unusual design feature: an electronic flight control system which contains fly-by-wire control laws, including envelope protections, for the overspeed protection and roll limiting function. Current part 25 requirements do not contain appropriate standards for high speed protection systems.

Discussion

As further discussed previously, a special condition is necessary in addition to the requirements of § 25.143 for the operation of the high speed protection. The general intent is that the overspeed protection does not impede normal maneuvering and speed control and that the overspeed protection does not restrict or prevent emergency maneuvering. Therefore, these special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of proposed special conditions No. 25–12–12–SC for the Embraer S.A. Model EMB–550 airplanes was published in the **Federal Register** on November 20, 2012 (77 FR 69572). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Model EMB–550 airplane. Should Embraer S.A. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Embraer S.A. Model EMB–550 airplanes.

1. In addition to § 25.143, the following requirement applies: Operation of the high speed limiter during all routine and descent procedure flight must not impede normal attainment of speeds up to overspeed warning.

Issued in Renton, Washington, on February 12, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–03676 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1005; Directorate Identifier 2012–NE–27–AD; Amendment 39–17349; AD 2013–03–14]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada Corp Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain

Pratt & Whitney Canada Corp. (P&WC) PT6C–67C turboshaft engines. This AD requires initial and repetitive borescope inspections to verify the presence of a retaining ring securing the power turbine (PT) baffle located near the second stage PT disk. If the engine fails the inspection, this AD also requires removing the engine from service before further flight. This AD was prompted by five reported incidents of second stage PT disk damage. We are issuing this AD to prevent damage to the PT disk which, if undetected, could cause uncontained PT disk failure and loss of control of the helicopter.

DATES: This AD becomes effective March 26, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 26, 2013.

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; email: *james.lawrence@faa.gov;* phone: 781–238–7176; fax: 781–238–7199.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 25, 2012 (77 FR 65142). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information states:

> There have been 5 reported incidents of second stage Power Turbine (PT) disk damage caused by the PT baffle moving and contacting the downstream side of the second stage PT disk. In two of these incidents, the PT section of the engine failed to rotate (on ground) as a result of baffle interference.
>
> An investigation has determined that the root cause for the PT baffle displacement and the resultant PT disk damage was due to the failure of the retaining ring that holds the PT baffle in its intended position.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 65142, October 25, 2012).

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed (77 FR 65142, October 25, 2012).

Costs of Compliance

Based on the service information, we estimate that this AD will affect about 220 engines of U.S. registry. We also estimate that it will take about six hours per engine to comply with this AD. The average labor rate is $85 per work-hour. We anticipate that two engines will fail the initial inspection. Required parts will cost about $224,636 per engine. Based on these figures, we estimate the cost of the AD on U.S. operators to be $561,472. Our cost estimate is exclusive of possible warranty coverage.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: (800) 647–5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2013–03–14 Pratt & Whitney Canada Corp: Amendment 39–17349; Docket No. FAA–2012–1005; Directorate Identifier 2012–NE–27–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective March 26, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Canada Corp. (P&WC) PT6C–67C turboshaft engines that have not had P&WC Service Bulletin (SB) No. PT6C–72–41056 incorporated.

(d) Reason

This AD was prompted by five reported incidents of second stage power turbine (PT) disk damage. We are issuing this AD to prevent damage to the PT disk which, if undetected, could cause uncontained PT disk failure and loss of control of the helicopter.

(e) Actions and Compliance

Unless already done, do the following actions.

(f) Borescope Inspections

(1) Borescope-inspect to verify the presence of a retaining ring securing the PT baffle located near the second stage PT disk, as follows:

(i) For engines with 2,200 PT cycles or more on the effective date of this AD, inspect within 100 operating hours or 150 PT cycles, whichever occurs first.

(ii) For engines with more than 1,400 PT cycles but fewer than 2,200 PT cycles on the effective date of this AD, inspect within 250 operating hours, 350 PT cycles, or before exceeding 2,350 PT cycles, whichever occurs first.

(iii) For engines with 1,400 PT cycles or fewer on the effective date of this AD, inspect within 500 operating hours, 750 PT cycles, or before exceeding 1,750 PT cycles, whichever occurs first.

(2) Thereafter, repetitively borescope-inspect to verify the presence of the retaining ring securing the PT baffle located near the second stage PT disk, on or before an additional 600 flight hours or 900 PT cycles, whichever occurs first.

(3) Use P&WC Alert SB No. PT6C–72–A41060, Revision 3, dated October 11, 2012, paragraphs 3.A.(1) through 3.A.(6) to do the borescope inspections required by this AD.

(4) If the retaining ring is missing or the PT baffle is out of position, then remove the engine from service before further flight.

(g) Optional Terminating Action

Performing the engine improvement modifications in P&WC SB No. PT6C–72–41056, Revision 5, dated January 17, 2013, paragraphs 3.A. through 3.C.(12) and 3.E.(1) through 3.E.(15), is an optional terminating action to the repetitive inspections required by this AD.

(h) Credit for Previous Actions

(1) If you performed the initial borescope inspection before the effective date of this AD using P&WC Special Instruction No. 45–2011R2, dated July 27, 2011, or P&WC Alert SB No. PT6C–72–A41060, dated August 12, 2011, or Revision 1, dated September 29, 2011, or Revision 2, dated February 10, 2012, you met the requirements of paragraph (f)(1) of this AD.

(2) If you performed the engine modification before the effective date of this AD using P&WC SB No. PT6C–72–41056, dated April 1, 2011, or Revision 1, dated June 17, 2011, or Revision 2, dated October 6, 2011, or Revision 3, dated February 3, 2012, or Revision 4, dated February 13, 2012, you met the requirements of this AD and no further action is required.

(i) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(j) Related Information

(1) For more information about this AD, contact James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; email: *james.lawrence@faa.gov;* phone: 781–238–7176; fax: 781–238–7199.

(2) Refer to Transport Canada AD CF–2012–24, dated August 2, 2012, for related information.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Pratt & Whitney Canada Corp (P&WC) Alert Service Bulletin (SB) No. PT6C–72–A41060, Revision 3, dated October 11, 2012.

(ii) P&WC SB No. PT6C–72–41056, Revision 5, dated January 17, 2013.

(3) For service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Web site: *http://www.pwc.ca.*

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(5) You may view this service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on February 1, 2013.

Colleen M. D'Alessandro,

Assistant Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2013–03266 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0942; Directorate Identifier 2012–NE–24–AD; Amendment 39–17355; AD 2013–03–21]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada Corp. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain serial number Pratt & Whitney Canada Corp. PW206B, PW206B2, PW206C, PW207C, PW207D, PW207D1, PW207D2, and PW207E turboshaft engines. This AD was prompted by the discovery that certain power turbine (PT) disks were made to specific heat codes that may not achieve the maximum in-service life. This AD requires re-identification of the PT disk to a part number (P/N) with a lower life limit. We are issuing this AD to prevent possible uncontained PT disk failure and loss of helicopter control.

DATES: This AD becomes effective March 26, 2013. The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 26, 2013.

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7176; fax: 781–238–7199; email: *james.lawrence@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 7, 2012 (77 FR 66767). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information states:

> Certain power turbine (PT) disks, part number (P/N) 3044188–01, made to specific heat codes may not achieve the established maximum in-service life when installed in Turbomachinery Assembly P/N 3058588. The PT disk in-service life for engines using this specific PT disk and compressor turbine (CT) vane combination is reduced when operated in a particular temperature and speed environment.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 66767, November 7, 2012).

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed (77 FR 66767, November 7, 2012).

Costs of Compliance

We estimate that this AD will affect about 83 engines installed on

helicopters of U.S. registry. We also estimate that it will take about 4 hours per engine to comply with this AD. The average labor rate is $85 per hour. Prorated parts life will cost about $8,900. Based on these figures, we estimate the cost of this AD on U.S. operators to be $766,920.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: 800–647–5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2013–03–21 Pratt & Whitney Canada Corp.: Amendment 39–17355; Docket No. FAA–2012–0942; Directorate Identifier 2012–NE–24–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective March 26, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Canada Corp. (P&WC) model PW206B, PW206B2, PW206C, PW207C, PW207D, PW207D1, PW207D2, and PW207E turboshaft engines.

(d) Reason

This AD was prompted by the discovery that certain power turbine (PT) disks, part number (P/N) 3044188–01, made to specific heat codes that may not achieve the established maximum in-service life when installed in Turbomachinery Assembly P/N 3058588. The PT disk in-service life for engines using this specific PT disk and compressor turbine vane combination is reduced when operated in a particular temperature and speed environment. We are issuing this AD to prevent possible uncontained PT disk failure and loss of helicopter control.

(e) Actions and Compliance

Unless already done, do the following actions.

(f) Affected PT Disks Installed With Turbomachinery Assembly P/N 3058588 Installation

(1) For any PT disk P/N 3044188–01 that is listed by serial number (S/N) in Table 1 of P&WC Alert Service Bulletin (ASB) No. PW200–72–A28311, Revision 2, dated July 24, 2012, and, that is installed or that had previously been installed with Turbomachinery Assembly P/N 3058588 installation, do the following:

(i) Remove the PT disk P/N 3044188–01 from service before it reaches 10,000 cycles-since-new (CSN).

(ii) Re-identify the PT disk to P/N 3072542–01, at the next engine shop visit, not to exceed 10,000 CSN on the PT disk, before reinstalling it in any engine. Use paragraphs 3.B.(1) through 3.B.(1)(b)*4* of the Accomplishment Instructions of P&WC ASB No. PW200–72–A28311, Revision 2, dated July 24, 2012, to do the re-identification.

(iii) After re-identification of the PT disk to P/N 3072542–01, retain the total cycles accumulated as P/N 3044188–01. The cycles remaining on the re-identified P/N 3072542–01 PT disk must be calculated using the difference between the published life limit of P/N 3072542–01 and the total number of cycles accumulated as P/N 3044188–01. The maximum in-service life of PT disk, P/N 3072542–01, is 10,000 CSN.

(2) After the effective date of this AD, do not install any PT disk, P/N 3044188–01, that is listed in Table 1 of P&WC ASB No. PW200–72–A28311, Revision 2, dated July 24, 2012, in any engine with Turbomachinery Assembly P/N 3058588 installation, unless the PT disk has been re-identified to P/N 3072542–01. Use paragraphs 3.B.(1) through 3.B.(1)(b)*4* of the Accomplishment Instructions of P&WC ASB No. PW200–72–A28311, Revision 2, dated July 24, 2012, to do the PT disk re-identification.

(g) Credit for Actions Accomplished in Accordance With Previous Service Information

You may take credit for the re-identification of the PT disk that is required by this AD if you performed the re-identification before the effective date of this AD using P&WC ASB No. PW200–72–A28311, dated March 1, 2012, or P&WC ASB No. PW200–72–A28311, Revision 1, dated March 22, 2012.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(i) Related Information

(1) For more information about this AD, contact James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7176; fax: 781–238–7199; email: *james.lawrence@faa.gov.*

(2) Refer to Transport Canada AD CF–2012–23, dated July 26, 2012, for related information.

(3) The Engine Maintenance Manual (EMM) Temporary Revisions (TRs) listed in Table 1 to paragraph (i)(3) of this AD pertain to the subject of this AD.

TABLE 1 TO PARAGRAPH (I)(3)—EMM TRS

EMM P/Ns:	TR Nos.:
3071602	AL–3, AL–4
3043612	AL–12, AL–13
3043322	AL–16
3039732	AL–18, AL–19
3038324	AL–20

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Pratt & Whitney Canada Corp. Alert Service Bulletin No. PW200–72–A28311, Revision 2, dated July 24, 2012.

(ii) Reserved.

(3) For service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Web site: *www.pwc.ca.*

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(5) You may view this service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on February 7, 2013.

Robert J. Ganley,

Acting Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2013–03412 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0986; Directorate Identifier 2012–NM–077–AD; Amendment 39–17357; AD 2013–03–23]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace LP (Type Certificate Previously Held by Israel Aircraft Industries, Ltd.) Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Gulfstream Aerospace LP (Type Certificate Previously Held by Israel Aircraft Industries, Ltd.) Model Gulfstream G150 airplanes. This AD was prompted by a review that determined that the runway slope and anti-ice corrections to V_1 and take-off distances in the Gulfstream G150 Airplane Flight Manual (AFM) were presented in a non-conservative manner. This AD requires revising the performance section of the AFM to include procedures to advise the flightcrew of certain runway slope and anti-ice corrections and take-off distance values. We are issuing this AD to prevent the use of published non-conservative data, which could result in the inability to meet the required take-off performance, with consequent hazard to safe operation during performance-limited take-off operations.

DATES: This AD becomes effective March 26, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 26, 2013.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1503; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on September 20, 2012 (77 FR 58323). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information (MCAI) states:

> This [Israeli] AD mandates revised limitations in the G150 AFM, pertaining to the Performance Section. Each operator must incorporate Temporary Rev. 3 to the G150 AFM.

The unsafe condition is the use of published non-conservative data, which could result in the inability to meet the required take-off performance, with consequent hazard to safe operation during performance-limited take-off operations. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 58323, September 20, 2012) or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 58323, September 20, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 58323, September 20, 2012).

Costs of Compliance

We estimate that this AD will affect 56 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $4,760, or $85 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under

Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 58323, September 20, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2013–03–23 Gulfstream Aerospace LP (Type Certificate Previously Held by Israel Aircraft Industries, Ltd.): Amendment 39–17357. Docket No. FAA–2012–0986; Directorate Identifier 2012–NM–077–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective March 26, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Gulfstream Aerospace LP (Type Certificate previously held by Israel Aircraft Industries, Ltd.) Model Gulfstream G150 airplanes; certificated in any category; all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 01, Operations information.

(e) Reason

This AD was prompted by a review that determined that the runway slope and anti-ice corrections to V_1 and take-off distances in the G150 Airplane Flight Manual (AFM) were presented in a non-conservative manner. We are issuing this AD to prevent the use of published non-conservative data, which could result in the inability to meet the required take-off performance, with consequent hazard to safe operation during performance-limited take-off operations.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) AFM Revision

Within 60 days after the effective date of this AD, revise Section V, Performance, of the Gulfstream G150 AFM to include the information in Gulfstream G150 Temporary Revision (TR) 3, dated December 14, 2011. This TR introduces corrections for runway slope. Operate the airplane according to the procedures in this TR.

Note 1 to paragraph (g) of this AD: The AFM revision required by paragraph (g) of this AD may be done by inserting copies of Gulfstream G150 TR 3, dated December 14, 2011, in the AFM. When this TR has been included in general revisions of the AFM, the general revisions may be inserted in the AFM, provided the relevant information in the general revision is identical to that in Gulfstream G150 TR 3, dated December 14, 2011, and the TR may be removed.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Groves, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1503; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(i) Special Flight Permits

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(j) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) Israeli Airworthiness Directive 01–12–02–02, dated March 2, 2012; and Gulfstream G150 TR 3, dated December 14, 2011, to Section V, Performance, of the Gulfstream G150 AFM; for related information.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Gulfstream G150 Temporary Revision 3, dated December 14, 2011, to Section V, Performance, of the Gulfstream G150 Airplane Flight Manual.

(ii) Reserved.

(3) For service information identified in this AD, contact Gulfstream Aerospace Corporation, P.O. Box 2206, Mail Station D–25, Savannah, GA 31402–2206; telephone 800–810–4853; fax 912–965–3520; email *pubs@gulfstream.com;* Internet *http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm.*

(4) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on February 7, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–03403 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0547; Directorate Identifier 2009–NM–234–AD; Amendment 39–17354; AD 2013–03–20]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 757 airplanes. This AD was prompted by reports of fuel leaking from the front spar of the wing through the slat track housing. This AD requires a detailed inspection of the inboard and outboard main slat track downstop assemblies and a torque application to the main track downstop assembly nuts of slat numbers 1 through 10, excluding the outboard track of slats 1 and 10; a detailed inspection of all slat track housings for foreign object debris (FOD) and visible damage; and corrective actions if necessary. We are issuing this AD to detect and correct incorrectly installed main slat track downstop assemblies, which, when the slat is retracted, could cause a puncture in the slat track housing and lead to a fuel leak and potential fire.

DATES: This AD is effective March 26, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 26, 2013.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *Nancy.Marsh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) on May 18, 2012, to amend 14 CFR part 39 to include an airworthiness directive that would apply to the specified products. That SNPRM published in the **Federal Register** on June 1, 2012 (77 FR 32433). The original NPRM (75 FR 31327, June 3, 2010) proposed to require a detailed inspection of the inboard and outboard main slat track downstop assemblies and a torque application to the main track downstop assembly nuts of slat numbers 1 through 10, excluding the outboard track of slats 1 and 10; a detailed inspection of all slat track housings for FOD and visible damage; and corrective actions if necessary. The SNPRM proposed to require inspection results reporting.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (77 FR 32433, June 1, 2012) and the FAA's response to each comment.

Support for the SNPRM (77 FR 32433, June 1, 2012)

American Airlines (AAL) stated that it has reviewed the SNPRM (77 FR 32433, June 1, 2012) and agrees with the intent.

UPS stated that it concurs with the technical reasons for the inspections and has been accomplishing those inspections since February 2011.

Requests To Revise Cost Estimate

AAL and Boeing requested that we revise the ''Costs of Compliance'' section of the SNPRM (77 FR 32433, June 1, 2012) to account for more hours necessary to accomplish the inspections.

AAL stated that it has completed a representative sample of affected airplanes, and, contrary to the 20 estimated work-hours to accomplish the inspection as specified in the SNPRM (77 FR 32433, June 1, 2012), it has been taking between 100 and 300 work-hours.

Boeing stated that it has received input from an operator that additional time is necessary to clean the grease from inside the slat can in order to complete the required inspection. Boeing stated that the work-hours required to accomplish the inspection are approximately 80 hours (not 20 hours, as specified in Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011 (which was referred to as the appropriate source of service information in the SNPRM (77 FR 32433, June 1, 2012)).

We agree to change the work-hours specified in this AD, but not to the extent requested by AAL. We have changed the estimated costs specified in the AD preamble to 80 work-hours.

Request To Include Borescope Procedures

AAL stated that it has found that a borescope inserted through the drain hole located in the front spar below each slat track housing opening provides easier access and a better view of the slat housing interior than the proposed detailed inspection. AAL stated that it might be of benefit to operators to specifically include a borescope inspection in the service information work instructions.

We do not agree to change the AD to include borescope procedures. Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, does not recommend a specific procedure for use of the borescope. We have determined that the current detailed inspection is adequate to address the identified unsafe condition and that delaying this action until after the release of a revised service bulletin is not warranted. However, under the provisions of paragraph (l) of this AD, we will consider requests for an alternate inspection procedure if sufficient data are submitted to substantiate that the alternate inspection procedure would satisfactorily address the identified unsafe condition. We have not changed the AD in this regard.

Request To Allow Simultaneous Inspection Steps

AAL requested that we include the text of General Note 1 that appeared in Boeing Special Attention Service Bulletin 757–57–0068, dated September 15, 2009, which was referenced in the original NPRM (75 FR 31327, June 3, 2010) as the appropriate source of

service information for the proposed actions. AAL stated that this note allowed operators to accomplish the inspections on both wings simultaneously, or on multiple slat can locations on the same wing simultaneously, instead of performing the inspections on each slat can sequentially.

We partially agree. We agree with revising the AD to allow for inspections of multiple slat can locations, on both wings, to be performed simultaneously, because there is no effect on the accomplishment of the service information. We have added new paragraph (h)(3) to this AD to include this provision. However, we disagree with adding the full text of General Note 1 to the AD, because the note could be interpreted as allowing the inspection steps at a specific slat can to be performed out of sequence, which could detrimentally affect the results of the inspection and/or corrective actions.

Request To Extend Compliance Time

AAL requested that we extend the compliance time from 24 months to 72 months after issuance of the AD to accomplish the required actions. AAL stated that ''extending the inspection threshold to 72 months enables operators who have extended their maintenance program in accordance with Boeing Maintenance Planning Data to accomplish this modification at the first heavy maintenance visit after the effective date of the AD, thus precluding the addition of unnecessary out-of-service days.''

We do not agree to extend the compliance time to accomplish the required actions. In developing an appropriate compliance time for this AD, we considered not only the safety implications, but the manufacturer's recommendations and the practical aspect of accomplishing the actions within an interval of time that corresponds to typical scheduled maintenance for affected operators. Also, the Boeing service information cited in the original NPRM (75 FR 31327, June 3, 2010) has been available to operators since September 2009; therefore, U.S. operators have had ample time to consider initiating those actions, which this AD ultimately requires. Under the provisions of paragraph (l) of this AD, however, we might consider requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety. We have not changed the AD in this regard.

Request To Change Reporting Method

UPS requested that we revise paragraph (i) of the SNPRM (77 FR 32433, June 1, 2012) to allow reporting of results of inspections performed prior to the effective date of the AD to be in a different format than that specified in Appendix A of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011. UPS stated that the reporting format provided in Appendix A of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, is detailed, and that some of the details of inspections performed prior to the issuance of the SNPRM were not recorded in such detail. UPS noted that such detailed reporting was not part of the original NPRM (75 FR 31327, June 3, 2010).

We do not agree to change the reporting requirement in this AD. The AD requires the use of Appendix A of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, as a means of gathering the details of the inspection findings. These additional details, which are not included in Appendix A of Boeing Special Attention Service Bulletin 757–57–0068, dated September 15, 2009, are necessary in order to evaluate whether further rulemaking to address this safety issue is warranted. However, under the provisions of paragraph (l) of this final rule, we might consider requests for approval of alternative reporting methods if sufficient data are submitted to substantiate that such an alternative method would provide an acceptable level of information gathering. We have not changed the final rule in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the SNPRM (77 FR 32433, June 1, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM (77 FR 32433, June 1, 2012).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects 645 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	80 work-hours × $85 per hour = $6,800	$0	$6,800	$4,386,000

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2013–03–20 The Boeing Company: Amendment 39–17354; Docket No. FAA–2010–0547; Directorate Identifier 2009–NM–234–AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 26, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by reports of fuel leaking from the front spar of the wing through the slat track housing. We are issuing this AD to detect and correct incorrectly installed main track downstop assemblies, which, when the slat is retracted, could cause a puncture in the slat track housing and lead to a fuel leak and potential fire.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection and Torque Application

Except as required by paragraph (h)(1) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011: Do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Perform a detailed inspection of the inboard and outboard main track downstop assemblies of slat numbers 1 through 10, excluding the outboard main track downstop assemblies of slat numbers 1 and 10, for correct assembly order and missing or damaged parts; perform a detailed inspection of all slat track housings for foreign object debris, visible damage, and missing parts; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, except as required by paragraphs (h)(1), (h)(2), and (h)(3) of this AD. Do all applicable corrective actions before further flight.

(2) Apply torque to the main track down stop assembly nuts to make sure they have been correctly installed, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011.

(h) Exceptions to the Service Information

(1) Where Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, specifies a compliance time ''after the date on this service bulletin,'' this AD requires compliance at the specified time after the effective date of this AD.

(2) Where Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, specifies to contact Boeing for appropriate action: Before further flight, repair the damage using a method approved in accordance with the procedures specified in paragraph (l)(1) of this AD.

(3) Although Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, specifies the slat can inspections are to occur on the slat cans sequentially, this AD allows for the inspections of the slat cans at locations 1 through 10 to be accomplished in any order, including multiple slat can locations simultaneously, provided that all the instructions of each applicable figure of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, are completed in sequence on each slat can.

(i) Reporting Requirement

If any of the conditions specified in paragraph B.3., ''Part 3—Appendix A: Inspection Results Report,'' of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, are found during the inspection required by paragraph (g) of this AD, submit a report of the inspection findings at the applicable time specified in paragraph (i)(1) or (i)(2) of this AD, as specified in Appendix A of Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011, to Boeing through the Boeing Communication System (BCS). The report must include a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Special Attention Bulletin 757–57–0068, dated September 15, 2009, which is not incorporated by reference in this AD, provided the inspection results are reported as specified in paragraph (i)(2) of this AD.

(k) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to *9–ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet

the certification basis of the airplane and the approval must specifically refer to this AD.

(m) Related Information

(1) For more information about this AD, contact Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *Nancy.Marsh@faa.gov*.

(2) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com*.

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Special Attention Service Bulletin 757–57–0068, Revision 1, dated July 19, 2011.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com*.

(4) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Renton, Washington, on February 6, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–03268 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0732; Directorate Identifier 2012–CE–022–AD; Amendment 39–17311; AD 2012–26–16]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for all Pilatus Aircraft Ltd. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a need to incorporate new revisions into the Limitations section, Chapter 4, of the FAA-approved maintenance program (e.g., maintenance manual). We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective March 26, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of March 26, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of August 19, 2009 (74 FR 34213, July 15, 2009).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Pilatus Aircraft Ltd., Customer Service Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 62 08; fax: +41 (0) 41 619 73 11; Internet: *http://www.pilatus-aircraft.com* or email: *SupportPC12@pilatus-aircraft.com*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That SNPRM was published in the **Federal Register** on October 22, 2012 (77 FR 64442), which proposed to supersede AD 2009–14–13, Amendment 39–15963 (74 FR 34213, July 15, 2009).

Since we issued AD 2009–14–13, Amendment 39–15963 (74 FR 34213, July 15, 2009), Pilatus Aircraft Ltd. has issued revisions to the Limitations section of the airplane maintenance manual to include an inspection of the wing main spar fastener holes at rib 6 for cracks.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2012–0099, dated June 8, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> The mandatory instructions and airworthiness limitations applicable to the Structure and Components of the PC–12 are specified in the Aircraft Maintenance Manual (AMM) under Chapter 4. Prompted by a crack found on one wing of the aeroplane fleet leader, a more restrictive airworthiness limitation was introduced, in that manual, for the inspection of the main spar rib 6 strap fastener.
>
> These documents include the maintenance instructions and/or airworthiness limitations developed by Pilatus Aircraft Ltd. and approved by EASA. Failure to comply with these instructions and limitations could potentially lead to unsafe condition.
>
> For the reasons described above, this AD requires the implementation of more restrictive maintenance instructions and/or airworthiness limitations.

You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the SNPRM (77 FR 64442, October 22, 2012) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the SNPRM (77 FR 64442, October 22, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM (77 FR 64442, October 22, 2012).

Costs of Compliance

We estimate that this AD will affect 678 products of U.S. registry. We also estimate that it will take about 3.5 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $300 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $405,105, or $597.50 per product.

In addition, we estimate that any necessary corrective actions that must be taken based on incorporating the new revisions into the limitation section of the maintenance manual will take about 6 work-hours and require parts costing approximately $4,000, for a cost of $4,510 per product. We have no way of determining the number of products that may need these necessary corrective actions.

We estimate that it will take about 12 work-hours per product to comply with the new addition of the wing main spar fastener holes inspection requirement of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the wing main spar fastener holes on U.S. operators to be $691,560, or $1,020 per product.

In addition, we estimate that any necessary repairs to the wing main spar will take about 7 work-hours and require parts costing approximately $5,000, for a cost of $5,595 per product. We have no way of determining the number of products that may need these corrective actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the SNPRM (77 FR 64442, October 22, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–15963 (74 FR 34213, July 15, 2009), and adding the following new AD:

2012–26–16 Pilatus Aircraft Ltd.: Amendment 39–17311; Docket No. FAA–2012–1052; Directorate Identifier 2012–CE–014–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective March 26, 2013.

(b) Affected ADs

This AD supersedes AD 2009–14–13, Amendment 39–15963 (74 FR 34213, July 15, 2009).

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes, all manufacturer serial numbers (MSNs), certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 05: Time Limits.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a need to incorporate new revisions into the Limitations section, Chapter 4, of the FAA-approved maintenance program (e.g., maintenance manual). The limitations were revised to include an inspection of the wing main spar fastener holes at rib 6 for cracks. These actions are required to ensure the continued operational safety of the affected airplanes.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) *For Models PC–12 and PC–12/45 airplanes, MSNs 101 through 299:* Within the next 100 hours time-in-service (TIS) after August 19, 2009 (the effective date retained from AD 2009–14–13, Amendment 39–15963 (74 FR 34213, July 15, 2009)) or 1 year after August 19, 2009 (the effective date retained from AD 2009–14–13), whichever occurs first, replace the torque tube part number (P/N) 532.50.12.047 with torque tube P/N 532.50.12.064 following PILATUS AIRCRAFT LTD. Service Bulletin No: 32–021, dated November 21, 2008.

(2) *For all airplanes:* As of March 26, 2013 (the effective date of this AD), do not install torque tube P/N 532.50.12.047.

(3) *For all airplanes:* Before further flight after March 26, 2013 (the effective date of

this AD), insert Data module code 12–A–04–00–00–00A–000A–A, ''STRUCTURAL, COMPONENT AND MISCELLANEOUS—AIRWORTHINESS LIMITATIONS,'' dated October 15, 2012, of the Pilatus Model Identification: 12 Aircraft Maintenance Manual, PC12, PC12/45, PC 12/47 AMM Document No. 02049, 12–A–AM–00–00–00–I, revision 26, dated December 15, 2012, for Models PC–12, PC–12/45, PC–12/47, and Data module code 12–B–04–00–00–00A–000A–A, ''STRUCTURAL AND COMPONENT LIMITATIONS—AIRWORTHINESS LIMITATIONS,'' dated October 15, 2012, of the Pilatus Model Identification: 12 Aircraft Maintenance Manual, PC 12/47E AMM Document No. 02300, 12–B–AM–00–00–00–I, revision 9, dated December 15, 2012, for Model PC–12/47E, into the Limitations section of the FAA-approved maintenance program (e.g., maintenance manual). These limitations section revisions do the following:

(i) Establish an inspection of the wing main spar fastener holes at rib 6,

(ii) Specify replacement of components before or upon reaching the applicable life limit, and

(iii) Specify accomplishment of all applicable maintenance tasks within certain thresholds and intervals.

(4) *For all airplanes:* If no compliance time is specified in the documents listed in paragraph (f)(3) of this AD when doing any corrective actions where discrepancies are found as required in paragraph (f)(3)(iii) of this AD, do these corrective actions before further flight after doing the applicable maintenance task.

(5) *For all airplanes:* During the accomplishment of the actions required in paragraphs (f)(3)(i), (f)(3)(ii), and (f)(3)(iii) of this AD, if a discrepancy is found that is not identified in the documents listed in paragraph (f)(3) of this AD, before further flight after finding the discrepancy, contact Pilatus Aircraft Ltd. at the address specified in paragraph (i)(5) of this AD for a repair scheme and incorporate that repair scheme.

(g) Credit for Actions Accomplished in Accordance With Previous Service Information

This paragraph provides credit for the actions required in paragraph (f)(3) of this AD if already done before March 6, 2013 (the effective date of this AD) following Pilatus PC12 Aircraft Maintenance Manual Temporary Revision No. 04–03, dated October 15, 2012, which transmits Unclassified 12–A/AMP–04 ''STRUCTURAL, COMPONENT AND MISCELLANEOUS—AIRWORTHINESS LIMITATIONS,'' document 12–A–04–00–00–00A–000A–A, dated October 15, 2012; and Pilatus PC12/47E Aircraft Maintenance Manual Temporary Revision No. 04–01, dated October 15, 2012, which transmits Unclassified 12–B/AMP–04 ''STRUCTURAL AND COMPONENT LIMITATIONS—AIRWORTHINESS LIMITATIONS,'' document 12–B–04–00–00–00A–000A–A, dated October 15, 2012.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

(i) Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(ii) AMOCs approved for AD 2009–14–13, Amendment 39–15963 (74 FR 34213, July 15, 2009) are not approved as AMOCs for this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(i) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2012–0099, dated June 8, 2012; Pilatus Aircraft Ltd. Service Bulletin No: 32–021, dated November 21, 2008; Data module code 12–A–04–00–00–00A–000A–A, ''STRUCTURAL, COMPONENT AND MISCELLANEOUS—AIRWORTHINESS LIMITATIONS,'' dated October 15, 2012, of the Pilatus Model Identification: 12 Aircraft Maintenance Manual, PC12, PC12/45, PC 12/47 AMM Document No. 02049, 12–A–AM–00–00–00–I, revision 26, dated December 15, 2012; Data module code 12–B–04–00–00–00A–000A–A, ''STRUCTURAL AND COMPONENT LIMITATIONS—AIRWORTHINESS LIMITATIONS,'' dated October 15, 2012, of the Pilatus Model Identification: 12 Aircraft Maintenance Manual, PC 12/47E AMM Document No. 02300, 12–B–AM–00–00–00–I, revision 9, dated December 15, 2012; Pilatus PC12 Aircraft Maintenance Manual Temporary Revision No. 04–03, dated October 15, 2012, which transmits Unclassified 12–A/AMP–04 ''STRUCTURAL, COMPONENT AND MISCELLANEOUS—AIRWORTHINESS LIMITATIONS,'' document 12–A–04–00–00–00A–000A–A, dated October 15, 2012; and PC12/47E Aircraft Maintenance Manual Temporary Revision No. 04–01, dated October 15, 2012, which transmits Unclassified 12–B/AMP–04 ''STRUCTURAL AND COMPONENT LIMITATIONS—AIRWORTHINESS LIMITATIONS,'' document 12–B–04–00–00–00A–000A–A, dated October 15, 2012, for related information.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on March 26, 2013.

(i) Data module code 12–A–04–00–00–00A–000A–A, ''STRUCTURAL, COMPONENT AND MISCELLANEOUS—AIRWORTHINESS LIMITATIONS,'' dated October 15, 2012, of the Pilatus Model Identification: 12 Aircraft Maintenance Manual, PC12, PC12/45, PC 12/47 AMM Document No. 02049, 12–A–AM–00–00–00–I, revision 26, dated December 15, 2012.

(ii) Data module code 12–B–04–00–00–00A–000A–A, ''STRUCTURAL AND COMPONENT LIMITATIONS—AIRWORTHINESS LIMITATIONS,'' dated October 15, 2012, of the Pilatus Model Identification: 12 Aircraft Maintenance Manual, PC 12/47E AMM Document No. 02300, 12–B–AM–00–00–00–I, revision 9, dated December 15, 2012.

Note to paragraph (i)(3) of this AD: Data module code 12–A–04–00–00–00A–000A–A, ''STRUCTURAL, COMPONENT AND MISCELLANEOUS—AIRWORTHINESS LIMITATIONS,'' dated October 15, 2012, of the Pilatus Model Identification: 12 Aircraft Maintenance Manual, PC12, PC12/45, PC 12/47 AMM Document No. 02049, 12–A–AM–00–00–00–I, revision 26, dated December 15, 2012; and Data module code 12–B–04–00–00–00A–000A–A, ''STRUCTURAL AND COMPONENT LIMITATIONS—AIRWORTHINESS LIMITATIONS,'' dated October 15, 2012, of the Pilatus Model Identification: 12 Aircraft Maintenance Manual, PC 12/47E AMM Document No. 02300, 12–B–AM–00–00–00–I, revision 9, dated December 15, 2012, were issued as complete updates to the AMM Airworthiness Limitations sections and incorporate all technical information contained in Pilatus AMM Temporary Revision No. 04–01 and Pilatus AMM Temporary Revision No. 04–03, both dated October 15, 2012.

(4) The following service information was approved for IBR on August 19, 2009 (74 FR 34213, July 15, 2009).

(i) Pilatus Aircraft Ltd. Service Bulletin No: 32–021, dated November 21, 2008.

(ii) Reserved.

(5) For Pilatus Aircraft Ltd. service information identified in this AD, contact Pilatus Aircraft Ltd., Customer Service Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 62 08; fax: +41 (0) 41 619 73 11; Internet: *http://www.pilatus-aircraft.com* or email: *SupportPC12@pilatus-aircraft.com*.

(6) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/index.html.*

Issued in Kansas City, Missouri, on February 8, 2013.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–03407 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

28 CFR Part 16

[CPCLO Order No. 001–2013]

Privacy Act of 1974; Implementation

AGENCY: Federal Bureau of Prisons, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice (DOJ or Department), Federal Bureau of Prisons (BOP), is issuing a final rule for the modified system of records notice entitled ''Inmate Central Records System'' (ICRS) (JUSTICE/BOP–005). This system is being exempted from certain subsections of the Privacy Act of 1974 listed below for the reasons set forth in the following text.

DATES: *Effective:* February 19, 2013.

FOR FURTHER INFORMATION CONTACT: Wanda M. Hunt, FOIA/Privacy Act Chief, Federal Bureau of Prisons, 202–514–6655.

SUPPLEMENTARY INFORMATION: On April 26, 2012, at 77 FR 24982, the Department published an updated Privacy Act system of records notice (SORN) for the ICRS, a BOP SORN originally published on August 27, 1975 (40 FR 38704). The proposed SORN amendments reflected overall modernization and technological changes of BOP's information system, and included updates to system routine uses. On April 26, 2012, at 77 FR 24878, the Department also published a proposed rule to amend 28 CFR 16.97, which had previously established exemptions of the ICRS from various Privacy Act provisions, as expressly authorized by Privacy Act subsection (j). The proposed rule did not significantly change the previously established ICRS exemptions from Privacy Act subsections (c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(H), (5), and (8); (f); and (g). In addition to such exemptions, the proposed rule sought to exempt ICRS from Privacy Act subsections (e)(4)(G) and (I), add exemptions pursuant to Privacy Act subsection (k)(2), and made general editorial revisions to the reasons for the already existing ICRS exemptions. Public comments were invited. Comments on the proposed SORN changes were to be submitted by May 29, 2012 (77 FR 24982); comments on the proposed rule were to be received by the Department's designated recipient by May 29, 2012 (77 FR 24878).

The Department received comments from one member of the public. Although some of the comments received pertain to the applicability of exemptions to this SORN, the comments reference only the **Federal Register** citation for the proposed SORN modifications and not the proposed rule. Moreover, the comments were not received timely with regard to the proposed rule. Accordingly, the Department has carefully reviewed and analyzed these comments in the context of the SORN, but declines to adopt them and hereby implements the proposed rule without substantive change.

The comments received to the SORN address four main issues: (1) The routine use disclosures to the news media and public; (2) the routine use disclosures to health care agencies/professionals; (3) the inapplicability of 5 U.S.C. 552a(j); and (4) the inapplicability of 5 U.S.C. 552a(k). Responses to the comments are set forth below.

First, the commenter objected to the scope and lack of specificity of two new routine uses, namely routine use (r) for disclosures to the news media and the public, and new routine use (t) for disclosures to health care agencies/professionals. The Department, however, maintains that these routine uses provide appropriate specificity, as each routine use indicates the purpose for permissible disclosures and incorporates a defined standard that further limits disclosures to data relevant to each routine use's particular purpose.

Second, the commenter objected to disclosure of medical information without an individual's consent. The Department understands the sensitivity of medical information of former/current inmates, and thus, has instituted safeguards appropriate for this kind of information. The Department considers the health care disclosures encompassed in routine use (t) to be lawful, appropriate, and necessary to meet BOP's responsibilities for the safekeeping, care, and custody of incarcerated (and formerly incarcerated) persons and for the continued safety and security of federal prisons and the public.

The commenter also objected to the applicability of 5 U.S.C. 552a (j) and (k). Subsection (j)(2) of the Privacy Act covers records created and maintained by the BOP. This subsection includes records maintained by any component that performs as its principal function any activity pertaining to the enforcement of criminal laws, including activities of correctional authorities (e.g. BOP). Further specified in subsection (j)(2) are the types of records that may be exempted, which include, for example: information compiled for the purpose of identifying individual criminal offenders and alleged offenders, including the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; and reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision. Such records comprise the vast majority of records in the ICRS. Any ICRS records that would not be within the scope of subsection (j)(2) might nonetheless come within the scope of subsection (k)(2), and thus, are appropriately subject to the (k)(2)-based exemptions that have now being established by this final rule. Moreover, the sections of the SORN that reflect the exemptions established by the underlying rule must necessarily conform to the exemption provisions finalized by this final rule.

Additionally, as suggested by the commenter, the Department proposed, and hereby includes in paragraph 16.97(k) of the final rule, that the exemptions apply only to the extent that information in this system is subject to exemption under these subsections.

Finally, the commenter alleged that the Department failed to provide a statement of reasons for the exemptions as required by the Privacy Act. However, the Department detailed the reasons for each exemption in paragraphs 16.97(k)(1)–(12) of both the proposed rule and final rule below. The SORN incorporates this underlying information via the section for ''Exemptions Claimed for the System,''

which expressly references the rule. Accordingly, the Department hereby declines to adopt changes to the ICRS SORN, and implements this corresponding exemption regulation without substantive change as set forth below.

List of Subjects in 28 CFR Part 16

Administrative practice and procedure, Courts, Freedom of information, Privacy, Sunshine Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 2940–2008, 28 CFR part 16 is amended as follows:

PART 16—[AMENDED]

■ 1. The authority citation for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

Subpart E—Exemption of Records Systems Under the Privacy Act

■ 2. Amend § 16.97 by revising paragraphs (a)(4) through (7) and (j) and (k) to read as follows:

§ 16.97 Exemption of Bureau of Prisons Systems—limited access.

(a) * * *

(4) Inmate Commissary Accounts Record System (JUSTICE/BOP–006).

(5) Inmate Physical and Mental Health Record System (JUSTICE/BOP–007).

(6) Inmate Safety and Accident Compensation Record System (JUSTICE/BOP–008).

(7) Federal Tort Claims Act Record System (JUSTICE/BOP–009).

* * * * *

(j) The following system of records is exempt pursuant to 5 U.S.C. 552a(j) and (k) from subsections (c)(3) and (4); (d); (e)(1), (2), (3), (4)(G), (H), and (I), (5), (8); (f); and (g): Inmate Central Records System (JUSTICE/BOP–005).

(k) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and/or (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, the applicable exemption may be waived, either partially or totally, by the BOP. Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3), the requirement that an accounting be made available to the named subject of a record, because this system is exempt from the access provisions of subsection (d). Also, because making available to a record subject the accounting of disclosures from records concerning the subject individual would specifically reveal any investigative interest in the individual. Revealing this information may thus compromise ongoing law enforcement efforts, as well as efforts to identify and defuse any potential acts of terrorism. Revealing this information may also permit the subject individual to take measures to impede the investigation, such as destroying evidence, intimidating potential witnesses, or fleeing the area to avoid the investigation.

(2) From subsection (c)(4) notification requirements because this system is exempt from the access and amendment provisions of subsection (d).

(3) From subsections (d)(1), (2), (3), and (4), because these provisions concern individual access to and amendment of records, compliance with which could jeopardize the legitimate correctional interests of safety, security, and good order of prison facilities; alert the subject of a suspicious activity report of the fact and nature of the report and any underlying investigation and/or the investigative interest of the BOP and other law enforcement agencies; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, and/or flight of the subject; possibly identify a confidential source or disclose information which would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or intelligence technique; or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Although the BOP has rules in place emphasizing that records should be kept up to date, the requirement for amendment of these records would interfere with ongoing law enforcement activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(4) From subsection (e)(1) because it is not always possible to know in advance what information is relevant and necessary for the proper safekeeping, care, and custody of incarcerated persons, and for the proper security and safety of federal prisons and the public. In addition, to the extent that the BOP may collect information that may also be relevant to the law enforcement operations of other agencies, in the interests of overall, effective law enforcement, such information should be retained and made available to those agencies with such relevant responsibilities.

(5) From subsections (e)(2) because the nature of criminal investigative and correctional activities is such that vital information about an individual can be obtained from other persons who are familiar with such individual and his/her activities. In such investigations and activities, it is not feasible to rely solely upon information furnished by the individual concerning his/her own activities since it may result in inaccurate information and compromise ongoing criminal investigations or correctional management decisions.

(6) From subsections (e)(3) because in view of BOP's operational responsibilities, the application of this provision would provide the subject of an investigation or correctional matter with significant information which may in fact impede the information gathering process or compromise ongoing criminal investigations or correctional management decisions.

(7) From subsections (e)(4)(G) and (H) because this system is exempt from the access provisions of subsection (d).

(8) From subsection (e)(4)(I) because publishing further details regarding categories of sources of records in the system may compromise ongoing investigations, reveal investigatory techniques and descriptions of confidential informants, or constitute a potential danger to the health or safety of law enforcement personnel.

(9) From subsection (e)(5) because in the collection and maintenance of information for law enforcement purposes, it is difficult to determine in advance what information is accurate, relevant, timely, and complete. Data which may seem unrelated, irrelevant, or incomplete when collected may take on added meaning or significance during the course of an investigation or with the passage of time, and could be relevant to future law enforcement decisions. In addition, because many of these records come from courts and other state and local criminal justice agencies, it is administratively impossible for them and the BOP to ensure compliance with this provision. The restrictions of subsection (e)(5) would restrict and delay trained correctional managers from timely exercising their judgment in managing the inmate population and providing for the safety and security of the prisons and the public.

(10) From subsection (e)(8), because to require individual notice of disclosure of information due to a compulsory

legal process would pose an impossible administrative burden on BOP and may alert subjects of investigations, who might otherwise be unaware, to the fact of those investigations.

(11) From subsection (f) to the extent that this system is exempt from the provisions of subsection (d).

(12) From subsection (g) to the extent that this system is exempted from other provisions of the Act.

* * * * *

Dated: February 12, 2013.

Joo Y. Chung,

Acting Chief Privacy and Civil Liberties Officer, United States Department of Justice.

[FR Doc. 2013–03693 Filed 2–15–13; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

[SATS No. AL–077–FOR; Docket No. OSM–2012–0016]

Alabama Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Alabama regulatory program (Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Alabama proposed revisions to its Program regarding revegetation success standards. Alabama intends to revise its program to improve operational efficiency.

DATES: *Effective Date:* February 19, 2013.

FOR FURTHER INFORMATION CONTACT: Sherry Wilson, Director, Birmingham Field Office. Telephone: (205) 290–7280. Email: *swilson@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Alabama program effective May 20, 1982. You can find background information on the Alabama program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Alabama program in the May 20, 1982, **Federal Register** (47 FR 22030). You can also find later actions concerning the Alabama program and program amendments at 30 CFR 901.10, 901.15, and 901.16.

II. Submission of the Amendment

By letter dated June 26, 2012 (Administrative Record No. AL–0664), Alabama sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Alabama sent the amendment on its own initiative.

We announced receipt of the proposed amendment in the September 5, 2012, **Federal Register** (77 FR 54490). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on October 5, 2012.

III. OSM's Findings

The following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below.

Alabama 880–X–10C–.62 Revegetation: Standards for Success; and Alabama 880–X–10D–.56 Revegetation: Standards for Success

Alabama proposed to add new subsections 880–X–10C–.62(1)(c) and (d) of its surface mining regulations and 880–X–10D–.56(1)(c) and (d) of its underground mining regulations regarding the revegetation standards for success related to its ground cover requirements and determining stocking success for trees and shrubs. Alabama's new subsections contain substantially the same language as their Federal counterparts at 30 CFR 816.116(b)(3)(ii) and (iii) and 30 CFR 817.116(b)(3)(ii) and (iii), respectively. Concerning its tree and shrub stocking requirements, Alabama replaces the Federal requirement related to the phrase ''for 60 percent of the applicable minimum period of responsibility'' with the phrase ''three years.'' The minimum applicable period of responsibility for Alabama is five years. Since three years would be 60 percent of the five-year responsibility period, OSM finds the revised language no less effective than the Federal and is approving the changes. Furthermore, Alabama proposed to delete subsections 880–X–10C–.62(2)(c)(iv) of its surface mining regulations and 880–X–10C–.56(2)(c)(iv) of its underground mining regulations regarding tree count requirements on forest land use areas because these subsections became redundant by addition of the previously mentioned subsections. Therefore, we approve Alabama's deletion of these subsections.

Alabama revised subsections 880–X–10C–.62(2)(e) and (g) of its surface mining regulations and 880–X–10D–.56(2)(e) and (g) of its underground mining regulations regarding ground cover requirements and woody plant standards for areas with the post-mining land uses of recreation, wildlife habitat, or undeveloped land. These proposed changes to Alabama's regulations are counterpart to the Federal regulations at 30 CFR 816.116(b)(3) and 30 CFR 817.116(b)(3). Alabama requires that in order to avoid competition, herbaceous ground cover on areas planted with woody vegetation or planted to food plots shall be limited to that necessary to adequately control erosion. Herbaceous ground cover on areas not planted with woody vegetation or as food plots shall equal or exceed 80 percent. We find that this proposed language is no less effective than the Federal requirement that vegetative ground cover shall not be less than that required to achieve the approved postmining land use. Therefore we are approving the change.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

On July 11, 2012, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Alabama program (Administrative Record No. AL–0664–02). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Alabama proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on July 11, 2012, under 30 CFR 732.17(h)(11)(i), we requested comments from the EPA on the amendment (Administrative Record No. AL–0664–02). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On July 11, 2012, we requested comments on Alabama's amendment (Administrative Record No. AL–0664–02). We received a comment letter from the Alabama SHPO stating that Alabama's proposed revisions regarding its revegetation success standards will have no adverse effect on cultural resources listed on, or eligible for, the National Registry of Historic Places (Administrative Record No. AL–0664–03). The ACHP did not respond to our request.

V. OSM's Decision

Based on the above findings, we approve the amendment Alabama sent us on June 26, 2012 (Administrative Record No. AL–0664).

To implement this decision, we are amending the Federal regulations, at 30 CFR part 901, that codify decisions concerning the Alabama program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on federally recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve Federal regulations involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business

Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 28, 2012.

Ervin J. Barchenger,

Regional Director, Mid-Continent Region.

For the reasons set out in the preamble, 30 CFR part 901 is amended as set forth below:

PART 901—ALABAMA

■ 1. The authority citation for part 901 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 901.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 901.15 Approval of Alabama regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
June 26, 2012	February 19, 2013	ASMC sections 880–X–10C–.62(1)(c) and (d); 880–X–10C–.62(2)(c)(iv), (e), and (g); 880–X–10D–.56(1)(c) and (d); and 880–X–10D–.56 (2)(c)(iv), (e), and (g).

[FR Doc. 2013–03776 Filed 2–15–13; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[SATS No. TX–065–FOR; Docket ID: OSM–2012–0019]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposed revisions to its regulations regarding: definitions; responsibilities; identification of interests and compliance information (surface and underground mining); identification of interests; mining in previously mined areas; review of permit applications; criteria for permit approval or denial; commission review of outstanding permits; challenge of ownership or control and applicant/violator system procedures; revegetation standards of success (surface and underground mining); responsibility: general; alternative enforcement; cessation orders; conditions of permit environment; application approval and notice; permit revisions; permit renewals: completed application; transfer, assignment or sale of permit rights: obtaining approval; and requirements for new permits for persons succeeding to rights granted under a permit. Texas intends to revise its program to be no less effective than corresponding Federal regulations, to clarify ambiguities, and to improve operational efficiency.

DATES: *Effective Date:* February 19, 2013.

FOR FURTHER INFORMATION CONTACT: Alfred L. Clayborne, Director, Tulsa Field Office. Telephone: (918) 581–6430. Email: *aclayborne@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Texas program effective February 16, 1980. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Texas program in the February 27, 1980, **Federal Register** (45 FR 12998). You can also find later actions concerning the Texas program and program amendments at 30 CFR 943.10, 943.15, and 943.16.

II. Submission of the Amendment

By email dated August 9, 2012 (Administrative Record No. TX–702), Texas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Texas submitted the proposed amendment in response to a September 30, 2009, letter (Administrative Record No. TX–665) from OSM, in accordance with 30 CFR 732.17(c), concerning multiple changes to its ownership and control requirements. Texas also made additional changes to its regulations on its own initiative. The specific sections in the Texas program are discussed in Part III OSM's Findings. Texas intends

to revise its program to be no less effective than the Federal regulations.

We announced receipt of the proposed amendment in the November 6, 2012, **Federal Register** (77 FR 66574). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on December 6, 2012. We did not receive any public comments.

III. OSM's Findings

We are approving the amendment as described below. The following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. Any revisions that we do not specifically discuss below concerning nonsubstantive wording or editorial changes can be found in the full text of the program amendment available at *www.regulations.gov.*

Texas proposed to revise portions of its regulations by making minor reference changes. The Texas regulations that contain the minor reference changes are listed in the table below. These minor reference changes are no less effective than counterpart Federal regulations. Therefore, we approve them.

MINOR REFERENCE CHANGES TABLE

16 Texas Administrative Code	Title
§ 12.221	Conditions of Permits: Environment.
§ 12.226	Permit Revisions.
§ 12.228	Permit Renewals: Completed Applications.
§ 12.232	Transfer, Assignment or Sale of Permit Rights: Obtaining Approval.
§ 12.233	Requirements for New Permits for Persons Succeeding to Rights Granted Under a Permit.
§ 12.239	Application Approval and Notice.

A. 16 Texas Administrative Code § 12.3 Definitions.

Texas proposed to add new definitions for Applicant/Violator System; Control or controller; Lands eligible for remining; Own, owner, or ownership; Remining; and Violation. Texas also revised definitions for Knowing or knowingly; Violation notice; and Willful or willfully. Texas' new definitions and revised definitions are substantively the same as counterpart Federal regulations at 30 CFR 701.5. Therefore, we approve Texas' definitions. Texas deleted its previous definition, Owned or controlled and owns and controls, which does not have a Federal counterpart. The deletion of this previously approved definition does not make Texas' program less effective than the Federal regulation. Therefore, we approve Texas' deletion.

B. 16 Texas Administrative Code § 12.100 Responsibilities.

Texas proposed to delete the word ''renewal'' in subsection (c). This subsection places the burden on the applicant to insure that the application or revision complies with all the Commission requirements. We find that Texas' deletion of the word ''renewal'' makes Texas' regulation substantively the same as counterpart Federal regulation at 30 CFR 773.7(b). Therefore, we approve Texas' deletion.

C. 16 Texas Administrative Code § 12.116 Identification of Interests and Compliance Information (Surface Mining); § 12.155 Identification of Interests; and § 12.156 Identification of Interest and Compliance Information (Underground Mining).

Texas proposed to delete old language in § 12.116 regarding identification of interests and compliance information for surface mining. Texas proposed to add new language regarding certifying and updating existing permit information, permit applicant and operator information, permit history information, property interest information, violation information, and commission actions. We find that Texas' new language is substantively the same as counterpart Federal regulations at 30 CFR 778.9 through 778.14. Therefore, we approve Texas' revision.

Texas proposed to delete § 12.155 regarding the identification of interest in certifying or updating existing permit information, permit applicant and operator information, permit history information, property interest information, and violation information. Texas' deletion of this section will minimize redundant language found in § 12.116 regarding identification of interests and compliance information. We find that deleting this section does not make Texas' regulation less effective than the Federal regulation. Therefore, we approve Texas' deletion.

Texas proposed to delete old language in § 12.156 regarding the identification of interests and compliance information for underground mining. Texas proposed new language regarding certifying and updating existing permit information, permit applicant and operator information, permit history information, property interest information, violation information, and commission actions. We find that Texas' new language is substantively the same as counterpart Federal regulations at 30 CFR 778.9 through 778.14. Therefore, we approve Texas' revision.

D. 16 Texas Administrative Code § 12.206 Mining in Previously Mined Areas.

Texas proposed to add new § 12.206 regarding application requirements for operations on lands eligible for remining, in which the applicant must identify potential environmental and safety issues related to prior mining activity, and must describe the mitigating measures that will be taken to ensure that the applicable reclamation requirements of the regulatory program can be met. We find that this new section is substantively the same as the counterpart Federal regulation at 30 CFR 785.25. Therefore, we approve Texas' new section.

E. 16 Texas Administrative Code § 12.215 Review of Permit Applications.

Texas proposed to add new language in § 12.215 that requires the entry and updating of data into the Applicant Violator System. Additionally, Texas is adding new language regarding the review of permit history, review of compliance history, and making a permit eligibility determination based on this information. We find that Texas' new language is substantially the same as counterpart Federal regulations at 30 CFR 773.8 through 773.14. Therefore, we approve Texas' new language.

F. 16 Texas Administrative Code § 12.216 Criteria for Permit Approval or Denial.

Texas proposed to add new language in § 12.216(16) regarding permit findings related to remining sites, that require the application to contain lands eligible for remining, an identification of potential environmental and safety problems, and mitigation plans that address any potential environmental or safety problems. We find that Texas' new language is substantially the same as counterpart Federal regulation at 30 CFR 773.15(m). Therefore, we approve Texas' new language.

G. 16 Texas Administrative Code § 12.225 Commission Review of Outstanding Permits.

Texas proposed to revise parts of § 12.225(d), (e), (g)(1), (g)(1)(A), (B), (C), (D), (E), (g)(2), and (h) regarding written findings, preliminary findings for

improvidently issued permits, permit suspension and rescission timeframes, and appeal rights. We find that Texas' new language is substantially the same as counterpart Federal regulations at 30 CFR 773.21(c), 773.22(b) and (c), 773.23(a), (b), (c), and (d). Therefore, we approve Texas' revisions.

H. 16 Texas Administrative Code § 12.234 Challenge of Ownership or Control, Information on Ownership and Control, and Violations, and Applicant/Violator System Procedures.

Texas proposed to add new § 12.234 regarding ownership and control challenges specifically the applicability, procedures, burden of proof, written agency decisions, and post-permit issuance information requirements. We find that Texas' new language is substantially the same as counterpart Federal regulations at 30 CFR 773.25, 773.26, 773.26(a), 773.27, 773.28, 774.11, and 774.12. Therefore, we approve Texas' new section.

I. 16 Texas Administrative Code § 12.395 Revegetation: Standards for Success (Surface Mining) and § 12.560 Revegetation: Standards for Success (Underground Mining).

Texas revised section 12.395(c)(2)(A) and (B), and (3)(A) and (B) of its surface mining regulations; and section 12.560(c)(2)(A) and (B), and (3)(A) and (B) of its underground mining regulations regarding ground cover requirements and woody plant standards for areas with the post-mining land uses of recreation, wildlife habitat, or undeveloped land. The proposed changes to Texas' regulations are substantially the same as counterpart Federal regulations at 30 CFR 816.116(c)(2) and (3), and 30 CFR 817.116(c)(2) and (3). We find that Texas' proposed revisions are no less effective than the Federal requirements, that vegetative groundcover shall not be less than that required to achieve the approved postmining land use. Therefore, we are approving the change.

J. 16 Texas Administrative Code § 12.235 Responsibility: General.

Texas proposed renumbering its previously approved § 12.234 to § 12.235 regarding the general responsibilities of the Texas Commission, which shall review requests for assistance and determine qualified operators, develop and maintain a list of qualified laboratories, conduct periodic on-site program evaluations, and participate in data coordination with other agencies. This change in numbering is done for consistency with other portions of its regulations. We find that this revision does not change any authorities of the Texas Commission already approved by OSM. Therefore, we approve Texas' revision.

K. 16 Texas Administrative Code § 12.676 Alternative Enforcement.

Texas proposed to add new § 12.676 regarding alternative enforcement, specifically for general provisions, criminal penalties, and civil actions for relief. We find that Texas' new section is substantially the same as counterpart Federal regulations at 30 CFR 847.2, 847.11, and 847.16. Therefore, we approve Texas' revision.

L. 16 Texas Administrative Code § 12.677 Cessation Orders.

Texas proposed to add new paragraph § 12.677(g) regarding the requirement for written notification to the permittee, the operator, and anyone listed or identified as an owner or controller of an operation, within 60 days of issuing a cessation order. We find that Texas' new section is substantively the same as counterpart Federal regulations at 30 CFR 843.11. Therefore, we approve Texas' revision.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

On August 16, 2012, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Texas program (Administrative Record No. TX–702.1).

We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comment

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Texas proposed to make in this amendment pertains to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on August 16, 2012, under 30 CFR 732.17(h)(11)(i), we requested comments from the EPA on the amendment (Administrative Record No. TX–702.1). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On August 16, 2012, we requested comments on Texas' amendment (Administrative Record No. TX–702.1), but neither the SHPO nor ACHP responded to our request.

V. OSM's Decision

Based on the above findings, we approve the amendment Texas sent us on August 9, 2012 (Administrative Record No. TX–702).

To implement this decision, we are amending the Federal regulations at 30 CFR Part 943 that codify decisions concerning the Texas program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Taking

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the

submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on federally recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve Federal regulations involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211, which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 24, 2013.

Leonard V. Meier,

Acting Director, Mid-Continent Region.

For the reasons set out in the preamble, 30 CFR part 943 is amended as set forth below:

PART 943—TEXAS

■ 1. The authority citation for part 943 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 943.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 943.15 Approval of Texas regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * * * *
August 9, 2012	February 19, 2013	16 TAC Administrative Code Sections: 12.3; 12.100(c); 12.116; 12.155; 12.156; 12.206; 12.215; 12.216; 12.221; 12.225; 12.226; 12.228;12.232; 12.233; 12.234; 12.235; 12.239; 12.395; 12.560; 12.676; and 12.677.

[FR Doc. 2013–03775 Filed 2–15–13; 8:45 am]
BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0888; FRL–9780–8]

Approval and Promulgation of Implementation Plans Tennessee: Revisions to Volatile Organic Compound Definition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve changes to the Tennessee State Implementation Plan (SIP), submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC) on September 3, 1999. Tennessee's September 3, 1999, SIP adds 17 compounds to the list of compounds excluded from the definition of ''Volatile Organic Compound'' (VOC). EPA is approving this SIP revision because the State has demonstrated that it is consistent with the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective April 22, 2013 without further notice, unless EPA receives adverse comment by March 21, 2013. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0888, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: R4-RDS@epa.gov*.

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2012–0888,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2012–0888. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Analysis of the State's Submittal

Tennessee's September 3, 1999, SIP submission changes rule 1200–3–9–.01 to add a total of 17 compounds to the list of compounds excluded from the definition of VOC to be consistent with EPA's definition of VOC at 40 CFR 51.100(s). The SIP submittal is in response to EPA's revision to the definition of VOC, (at 40 CFR 51.100(s)) published in the **Federal Register** on August 25, 1997 (62 FR 44900) and April 9, 1998 (63 FR 17331) adding the 16 compounds listed below in Table 1 and the compound methyl acetate respectively. These compounds were added to the exclusion list for VOC on the basis that they have a negligible effect on tropospheric ozone formation.

Tropospheric ozone, commonly known as smog, occurs when VOC and nitrogen oxide (NO_X) react in the atmosphere. Because of the harmful health effects of ozone, EPA limits the amount of VOC and NO_X that can be released into the atmosphere. VOCs are those compounds of carbon (excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate) which form ozone through atmospheric photochemical reactions. Compounds of carbon (or organic compounds) have different levels of reactivity; they do not react at the same speed, or do not form ozone to the same extent. It has been EPA's policy that compounds of carbon with a negligible level of reactivity need not be regulated to reduce ozone (42 FR 35314, July 8, 1977). EPA determines whether a given carbon compound has ''negligible'' reactivity by comparing the compound's reactivity to the reactivity of ethane. EPA lists these compounds in

its regulations at 40 CFR 51.100(s), and excludes them from the definition of VOC. The chemicals on this list are often called ''negligibly reactive.'' EPA may periodically revise the list of negligibly reactive compounds to add compounds to or delete them from the list.

TDEC's September 3, 1999, SIP revision changes rule 1200–3–9–.01 to add a total of 17 compounds to the list of compounds excluded from the definition of VOC in accordance with the federal list of compounds designated as having negligible photochemical reactivity at 40 CFR 51.100(s).

TABLE 1—16 COMPOUNDS ADDED TO THE LIST OF NEGLIGIBLY REACTIVE COMPOUNDS

Compound	Chemical name
HFC–32	Difluoromethane
HFC–161	Ethylfluoride
HFC–236fa	1,1,1,3,3,3-hexafluoropropane
HFC–245ca	1,1,2,2,3-pentafluoropropane
HFC–245ea	1,1,2,3,3-pentafluoropropane
HFC–245eb	1,1,1,2,3-pentafluoropropane
HFC–245fa	1,1,1,3,3-pentafluoropropane
HFC–236ea	1,1,1,2,3,3-hexafluoropropane
HFC–365mfc	1,1,1,3,3-pentafluorobutane
HCFC–31	Chlorofluoromethane
HCFC–123a	1,2-dichloro-1,1,2-trifluoroethane
HCFC–151a	1-chloro-1-fluoroethane
$C_4F_9OCH_3$	1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane
$(CF_3)_2CFCF_2OCH_3$	2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane
$C_4F_9OC_2H_5$	1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane
$(CF_3)CFCF_2OC_2H_5$	2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane

II. Final Action

EPA is approving the aforementioned changes to the State of Tennessee SIP, because it is consistent with EPA's definition of VOC and the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective April 22, 2013 without further notice unless the Agency receives adverse comments by March 21, 2013.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on April 22, 2013 and no further action will be taken on the proposed rule.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 22, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file any comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 5, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart RR—Tennessee

■ 2. Section 52.2220(c) is amended by revising the entry in Table 1 for ''Section 1200–3–9.01'' to read as follows:

§ 52.2220(c). Identification of plan.

* * * * *

(c) * * *

TABLE 1—EPA APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	* * *
CHAPTER 1200–3–9 CONSTRUCTION AND OPERATING PERMITS				
1200–3–9-.01	Definitions	6/27/2011	2/19/2013 [Insert first page of publication].	On 2/19/2013 EPA revised this section to add 17 compounds to the list of compounds excluded from the definition of VOC that was state effective on 9/3/1999. EPA is approving Tennessee's July 29, 2011, SIP revisions to Chapter 1200–3–9–.01 with the exception of the term ''particulate matter emissions'' at 1200–03–09–.01(4)(b)47(vi) as part of the definition for ''regulated NSR pollutant'' regarding the inclusion of condensable emissions in applicability determinations and in establishing emissions limitations. EPA approved Tennessee's May 28, 2009 SIP revisions to Chapter 1200–3–9–.01 with the exception of the ''baseline actual emissions'' calculation revision found at 1200–3–9–.01 (4)(b)45(i)(III), (4)(b)45(ii)(IV), (5)(b)1(xlvii)(I)(III) and (5)(b)1(xlvii)(II)(IV) of the submittal.
*	*	*	*	* * *

* * * * *

[FR Doc. 2013–03606 Filed 2–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2011–0417; FRL–9780–3]

RIN 2060–AR74

Greenhouse Gas Reporting Rule: Revision to Best Available Monitoring Method Request Submission Deadline for Petroleum and Natural Gas Systems Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to revise the deadline by which owners or operators of facilities subject to the petroleum and natural gas systems source category of the Greenhouse Gas Reporting Rule must submit requests for use of best available monitoring methods to the Administrator. This revision does not change any other requirements for owners or operators that are outlined in the best available monitoring method rule provisions.

DATES: This rule is effective on April 22, 2013 without further notice, unless the EPA receives adverse comment by March 21, 2013. If the EPA receives adverse comment by March 21, 2013, the EPA will publish a timely withdrawal notice in the **Federal Register** to inform the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by docket ID No. EPA–HQ–OAR–2011–0417 by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: GHG_Reporting_Rule_Oil_And_Natural_Gas@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 6102T, Attention Docket ID No. EPA–HQ–OAR–2011–0417, 1200 Pennsylvania Avenue NW., Washington, DC 20460.
- *Hand/Courier Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2011–0417. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. Send or deliver information identified as CBI to only the mail or hand/courier delivery address listed above, attention: Docket ID No. EPA–HQ–OAR–2011–0417. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without

going through *http://www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov index.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West Building, Room B102, 1301 Constitution Ave. NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGReportingRule@epa.gov.* For technical information, contact the Greenhouse Gas Reporting Rule Hotline at: *http://www.epa.gov/ghgreporting/reporters/index.html.* To submit a question, select Rule Help Center, then select Contact Us.

SUPPLEMENTARY INFORMATION:

Why is the EPA using a direct final rule?

The EPA is publishing this rule without a prior proposal because we view this as a noncontroversial action and anticipate no adverse comment. This change amends 40 CFR Part 98, § 98.234(f)(8)(i), *Timing of Request,* to change the deadline for submitting best available monitoring method requests for future years. The rule has required that for reporting years after 2012, a new request to use best available monitoring methods must be submitted by September 30 of the year prior to the reporting year for which use of best available monitoring methods is sought. In this action, the EPA is revising the deadline from September 30 of the prior reporting year to June 30 of the prior reporting year. This revision does not alter the substantive requirements for entities regulated by the Greenhouse Gas Reporting Rule (40 CFR Part 98, hereinafter ''Part 98''), nor does it affect the final confidentiality determinations for Part 98 data that the EPA has made through rulemaking. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate notice that will serve as the proposed rule for this amendment should the EPA receive adverse comment on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so by the comment deadline listed in the **DATES** section of this document. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If the EPA receives adverse comment, we will publish a timely withdrawal notice in the **Federal Register** to inform the public that this direct final rule will not take effect. In that case, we will address all public comments in any subsequent final rule based on the proposed rule.

Does this action apply to me?

The Administrator determined that this action is subject to the provisions of Clean Air Act (CAA) section 307(d). If finalized, these amended regulations could affect owners or operators of petroleum and natural gas systems. Regulated categories and entities may include those listed in Table 1 of this preamble:

TABLE 1—EXAMPLES OF AFFECTED ENTITIES BY CATEGORY

Source category	NAICS	Examples of affected facilities
Petroleum and Natural Gas Systems	486210	Pipeline transportation of natural gas.
	221210	Natural gas distribution facilities.
	211	Extractors of crude petroleum and natural gas.
	211112	Natural gas liquid extraction facilities.

Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding facilities likely to be affected by this action. Although Table 1 of this preamble lists the types of facilities that could potentially be affected by this action, other types of facilities not listed in the table could also be affected. To determine whether you are affected by this action, you should carefully examine the applicability criteria found in 40 CFR part 98 Subpart A and 40 CFR part 98, subpart W. If you have questions regarding the applicability of this action to a particular facility, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review

Under CAA section 307(b)(1), judicial review of this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by April 22, 2013. Under CAA section 307(d)(7)(B), only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. This section also provides a mechanism for us to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment], or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of this rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, Environmental Protection Agency, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave. NW., Washington, DC 20004, with a copy to the person listed in the

preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20004. Note, under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Acronyms and Abbreviations

The following acronyms and abbreviations are used in this document.

CAA Clean Air Act
CBI confidential business information
CFR Code of Federal Regulations
EO Executive Order
EPA U.S. Environmental Protection Agency
FR Federal Register
GHG greenhouse gas
ICR information collection request
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
QA/QC Quality Assurance/Quality Control
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
SBA Small Business Administration
SBREFA Small Business Regulatory Enforcement and Fairness Act
U.S. United States
UMRA Unfunded Mandates Reform Act of 1995
U.S.C. United States Code

Organization of This Document. The information presented in this preamble is organized as follows:

I. Background of Final Rule

On November 30, 2010 (75 FR 74459) the EPA finalized the Petroleum and Natural Gas Systems source category, Subpart W, of the Greenhouse Gas Reporting Rule. As part of that rule, the EPA finalized detailed provisions in 40 CFR 98.234(f), allowing for owners or operators to use best available monitoring methods for specified parameters in 40 CFR 98.233 where additional time is needed to comply with the monitoring and quality assurance/quality control (QA/QC) requirements as outlined in the rule. In these cases, owners or operators are given the flexibility, upon approval, to estimate parameters for equations in 40 CFR 98.233 by using either monitoring methods currently used by the facility that do not meet the specifications of a relevant Subpart, supplier data, engineering calculations, or other company records.

Owners or operators desiring to use best available monitoring methods for reporting years 2012 and beyond are required to submit a request by September 30 of the year prior to the reporting year for which use of best available monitoring methods are being sought.

II. What is the Revision to 40 CFR 98.234(f)(8)(i)?

This direct final rule amends one provision related to best available monitoring methods required in 40 CFR 98.234(f)(8)(i). This action amends the date by which owners or operators must submit a request to use best available monitoring methods for future reporting years from September 30 to June 30 of each year prior to the reporting year for which use of best available monitoring methods is sought. This amendment does not change any other best available monitoring method requirements as outlined in 40 CFR 98.234(f).

EPA currently has authority to review and finalize best available monitoring method request determinations during the reporting year in which the use of best available monitoring methods are sought. However, making this annual deadline earlier will create a more realistic schedule for processing best available monitoring method requests and will improve EPA's ability to inform owners or operators of EPA's final determination prior to the reporting year for which such methods are sought. For example, in 2012, the EPA received more requests than anticipated, many of which were quite technical in nature. Based on a review of those requests, the EPA has determined that, additional time is needed to carefully review requests it may receive in future years, and in cases where the EPA deems it necessary, to afford time to request further information or to clarify questions or concerns about the request. The September 30 deadline does not provide a realistic time period to sufficiently review and process the requests and notify all owners or operators of final determinations.

The EPA anticipates that this amendment will have minimal adverse impact on owners or operators requesting to use best available monitoring methods. First, the EPA believes that the amendment will provide greater certainty to reporters as they plan for the future reporting year. Further, the EPA has streamlined the submittal process itself, thus reducing the burden with submitting best available monitoring method requests to the EPA. EPA has developed a web form in the electronic greenhouse gas reporting tool (eGGRT) that allows submitters to enter information according to rule requirements. After an initial request has been submitted, eGGRT stores the information in that request and the owner or operator can use the stored information as the basis for a new request in subsequent reporting years.

Finally, some owners or operators might be concerned that they will have to submit a best available monitoring method request earlier in the year and that unforeseen circumstances could arise later on in the year. Because it will be the fourth year of implementation of Subpart W of the GHGRP, the EPA expects such a scenario to be highly unlikely. However, should such a scenario arise, the Agency does have authority to review a request received after the deadline. Thus, in cases of uncertainty, if the reporter anticipates the potential need for best available monitoring methods and the situation is unresolved at the time of the deadline, under 40 CFR 98.234(f)(1) owners or operators may elect to submit written notice of the potential situation by the June 30 deadline through the eGGRT system.

As noted previously, the EPA anticipates that this amendment would result in greater certainty to reporters choosing to submit best available monitoring method requests to the EPA for use in future years.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735,

October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This amendment affects a provision in the rule related to the date of submission for best available monitoring method requests and does not affect what is submitted in those request or any associated burden with submitting those requests. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations, 40 CFR part 98, Subpart W (75 FR 74458), under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0651. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this final rule on small entities, small entity is defined as: (1) a small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of these rule amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives ''which minimize any significant economic impacts of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that the rule will not have a significant economic impact on a substantial number of small entities if the rule relives regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. EPA anticipates that this amendment would result in greater certainty to reporters choosing to submit best available monitoring method requests to the EPA for use in future years.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, requires Federal agencies, unless otherwise prohibited by law, to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Federal agencies must also develop a plan to provide notice to small governments that might be significantly or uniquely affected by any regulatory requirements. The plan must enable officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposals with significant Federal intergovernmental mandates and must inform, educate, and advise small governments on compliance with the regulatory requirements.

This action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, the amendments in this action are not subject to the requirements of section 202 and 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

This action applies to an optional provision in the final rule for Subpart W, which in turn applies to petroleum and natural gas facilities that emit greenhouse gases. Few, if any, State or local government facilities would be affected. This action also does not limit the power of States or localities to collect GHG data and/or regulate GHG emissions. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Further, this action would not result in any changes to the current requirements of 40 CFR part 98 Subpart W and only applies to optional provisions in 40 CFR part 98 Subpart W. Thus, Executive Order 13175 does not apply to this action.

Although Executive Order 13175 does not apply to this action, the EPA sought opportunities to provide information to Tribal governments and representatives during the development of the rule for Subpart W promulgated on November 30, 2010. A summary of the EPA's consultations with Tribal officials is provided in Sections VIII.E and VIII.F of the preamble to the 2009 final rule and Section IV.F of the preamble to the 2010 final rule for Subpart W (75 FR 74485).

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted

by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment because it is a rule addressing information collection and reporting procedures.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and the required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the U.S. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule is effective on April 22, 2013 without further notice, unless the EPA receives adverse comment by March 21, 2013. If the EPA receives adverse comment by March 21, 2013, the EPA will publish a timely withdrawal notice in the **Federal Register** to inform the public that this rule will not take effect.

List of Subjects in 40 CFR Part 98

Environmental Protection, Administrative practice and procedures, Air pollution control, Greenhouse gases, Monitoring, Reporting and recordkeeping requirements.

Dated: February 6, 2013.

Lisa P. Jackson,

Administrator.

For the reasons discussed in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 98—MANDATORY GREENHOUSE GAS REPORTING

■ 1. The authority citation for part 98 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart W—[Amended]

■ 2. Section 98.234 is amended by revising paragraph (f)(8)(i) to read as follows:

§ 98.234 Monitoring and QA/QC requirements.

* * * * *

(f) * * *

(8) * * *

(i) *Timing of request.* EPA does not anticipate a need for best available monitoring methods beyond 2011, but for all reporting years after 2011, best available monitoring methods will be considered for unique or unusual circumstances which include data collection methods that do not meet safety regulations, technical infeasibility, or counter to other local, State, or Federal regulations. For use of best available monitoring methods in 2012, an initial notice of intent to request best available monitoring methods must be submitted by December 31, 2011. Any notice of intent submitted prior to April 22, 2013 cannot be used to meet this December 31, 2011 deadline; a new notice of intent must be signed and submitted by the designated representative. In addition to the initial notification of intent, owners or operators must also submit an extension request containing the information specified in paragraph (f)(8)(ii) of this section by March 30, 2012. Any best available monitoring methods request submitted prior to April 22, 2013 cannot be used to meet the March 30, 2012 deadline; a new best available monitoring methods request must be signed and submitted by the designated representative. Owners or operators that submit both a timely notice of intent and extension request consistent with paragraph (f)(8)(ii) of this section can automatically use best available monitoring method through June 30, 2012, for the specific parameters identified in their notification of intent and best available monitoring methods request regardless of whether the best available monitoring methods request is ultimately approved. Owners or operators that submit a notice of intent but do not follow up with a best available monitoring methods request by March 30, 2012 cannot use best available monitoring methods in 2012. For 2012, when an owner or operator has submitted a notice of intent and a subsequent best available monitoring method extension request, use of best available monitoring methods will be valid, upon approval by the Administrator, until the date indicated in the approval or until December 31, 2012, whichever is earlier. For reporting years after 2012, a new request to use best available monitoring methods must be submitted by June 30th of the year prior to the reporting year for which use of best available monitoring methods is sought.

* * * * *

[FR Doc. 2013–03469 Filed 2–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1990–0011; FRL–9780–6]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List: Deletion of the Kerr-McGee Sewage Treatment Plant Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Region 5 is publishing a direct final Notice of Deletion of the Kerr-McGee Sewage Treatment Plant Superfund Site (Site) located in West Chicago, Illinois, from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Illinois, through the Illinois Environmental Protection Agency (IEPA), because EPA has determined

that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective April 22, 2013 unless EPA receives adverse comments by March 21, 2013. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1990–0011, by one of the following methods:

- *http://www.regulations.gov.* Follow on-line instructions for submitting comments.
- *Email:* Timothy Fischer, Remedial Project Manager, at *timothy.fischer@epa.gov* or Janet Pope, Community Involvement Coordinator, at *pope.janet@epa.gov.*
- *Fax:* Gladys Beard, NPL Deletion Process Manager at (312) 886–4071.
- *Mail:* Timothy Fischer, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–5787, or Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353–0628 or (800) 621–8431.
- *Hand delivery:* Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal business hours are Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1990–0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information may not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at:

- U.S. Environmental Protection Agency-Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, Phone: (312) 353–1063, Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.
- West Chicago Public Library, 118 West Washington Street, West Chicago, IL 60185, Phone: (630) 231–1552, Hours: Monday through Thursday, 9:00 a.m. to 9:00 p.m. CST; Friday and Saturday, 9:00 a.m. to 5:00 p.m. CST; and Sundays until May, 1:00 p.m. to 5:00 p.m. CST.

FOR FURTHER INFORMATION CONTACT: Timothy Fischer, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–5787, or *fischer.timothy@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA Region 5 is publishing this direct final Notice of Deletion of the Kerr-McGee Sewage Treatment Plant Superfund Site (Kerr-McGee STP Site) from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective April 22, 2013 unless EPA receives adverse comments by March 21, 2013. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the *''Proposed Rules''* section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Kerr-McGee STP Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA Section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the State of Illinois prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the *''Proposed Rules''* section of the **Federal Register**.

(2) EPA has provided the State thirty (30) working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the State, through the IEPA, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, ''The Daily Herald.'' The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL.

Site Background and History

The Kerr-McGee STP Site is located in West Chicago, DuPage County, Illinois, and is comprised of the West Chicago Sewage Treatment Plant and approximately 1.2 miles of the West Branch DuPage River. The Site property and the sediments, banks and floodplain soils along the river were contaminated with radioactive thorium waste materials that originated at a thorium milling facility in West Chicago known as the Rare Earths Facility (REF). West Chicago is located approximately 30 miles west of downtown Chicago, has a population of approximately 27,086 (2010 census), and is characterized as suburban, with primarily high-density, single-family residential housing. The STP property is owned and operated by the City of West Chicago and is located at Illinois Routes 59 and 38 at Sarana Drive. The West Branch DuPage River is located along the eastern edge of the STP property and flows south through forest preserve and residential properties. The STP site extends as far south as the river's confluence with Kress Creek; all areas of the river south of that point are included as part of the Kerr-McGee Kress Creek/West Branch DuPage River Site, a related site in the West Chicago area.

The REF, operated by Lindsay Light and Chemical Company and its successors from 1932 until 1973, produced radioactive elements such as thorium, radium and uranium, along with gas lantern mantles, by extracting the elements from monazite sands and other ores. These operations resulted in the generation of radioactive mill tailings. Radioactive ore, tailings and process wastes from the REF were used at the STP property as fill material and to contour grounds, and also were used as fill along portions of the riverbank. Over time, some of the contaminated materials located on the STP property and along the riverbank entered the river through erosion and surface water runoff and were deposited downstream in sediments, banks and flood plain soils. Kerr-McGee purchased the REF in 1967 and maintained operations until closing the facility in 1973.

EPA proposed the STP site to the National Priorities List (NPL) on October 15, 1984 (49 FR 40320), and added it to the final list on August 30, 1990 (55 FR 35502). In 1985, Kerr-McGee entered into an agreement with the City of West Chicago under which Kerr-McGee conducted cleanup activities at the STP property, removing an estimated 57,000 cubic yards of material from the site during 1986 and 1987.

Contaminated materials were left behind in certain areas of the STP property and along the riverbank, and the 1.2 mile stretch of the river was not addressed by the City's agreement with Kerr-McGee. No other removal actions were taken at the site until the EPA required the time-critical removal action discussed below. Currently, there are no redevelopment plans for the STP site.

Remedial Investigation and Feasibility Study

EPA began a fund-lead remedial investigation/feasibility study (RI/FS) at the STP site in 1992. EPA's RI was designed to (1) identify areas of the STP property where residual contamination was left behind during the mid-1980s cleanup, and (2) fully investigate the nature and extent of contamination in the river. During settlement negotiations with Kerr-McGee, a potentially responsible party (PRP), associated with this site and three other related NPL sites in the West Chicago area, Kerr-McGee agreed to take over the completion of the RI/FS and to conduct a time-critical removal action at the STP property. EPA then divided the STP site into two operable units: An Upland Operable Unit (STP Upland OU) consisting of the STP property, and a second OU, consisting of the riverbank along the STP property and the 1.2 mile stretch of the West Branch DuPage River from the STP property to the confluence with Kress Creek (STP River OU).

On October 7, 2003, EPA signed an action memorandum for a time-critical removal action at the STP Upland OU, and on October 16, 2003, EPA entered into an administrative order on consent (AOC) in which Kerr-McGee agreed to conduct the removal action. The selected removal action included excavation and offsite disposal of

materials contaminated with radiation until predetermined verification points based upon relevant and appropriate state and federal regulations were achieved. The predetermined verification points, consisting of specified depths/elevations at numerous points across the STP property, were based on extensive site characterization data and were designed to remove materials that had been identified during site characterization activities as exceeding 7.2 picoCuries per gram (pCi/g) combined radium. (The relevant and appropriate state and federal regulations include a health-based surface soil standard of 5 pCi/g above background, and background in the West Chicago area was determined to be 2.2 pCi/g.) The selected removal action also included backfilling and restoring the excavated areas of the site. Kerr-McGee began on-site removal action work at the STP Upland OU in October 2003.

On November 21, 2003, EPA signed an AOC with Kerr-McGee under which they agreed to complete the RI/FS at the STP site. Kerr-McGee completed the RI and FS reports, and EPA completed the human health and ecological risk assessment reports. Human health risks that were identified above protective levels include soil ingestion and inhalation (non-Radon) risks to maintenance workers and radon inhalation risks to future residential users at the Upland OU. At the STP River OU, residential risks to radon inhalation and recreational risks to fish ingestion were found to be above a protective level. For the ecological risk assessment, chemical and radiation effects were assessed at both OUs. EPA determined that potential risks to environmental receptors would be minimized or eliminated by the cleanup actions taken at the site.

Kerr-McGee completed most of the on-site removal action work at the STP Upland OU during 2004. A total of 6,557 loose cubic yards of contaminated soil was removed from the site. Because portions of the STP property were used to support remedial action work at the STP River OU, final restoration activities could not be completed at the Upland OU until 2006. EPA and the State conducted a pre-final inspection of the removal action work at the STP Upland OU on August 8, 2006 and determined that Kerr-McGee had constructed the remedy in accordance with the removal action plans and specifications. One minor item was identified during the pre-final inspection; regrading and reseeding of a small area around a storm inlet manhole—and that action was completed by August 11, 2006.

In accordance with the AOC for the STP Upland OU, on September 12, 2006, Kerr-McGee prepared and submitted a final removal action report to EPA for review and approval. EPA approved the removal action report and issued a Notice of Completion of activities required by the AOC on August 12, 2008. The cost of the time-critical removal action at the STP Upland OU reported in the final removal action report was $3.15 million.

Record of Decision Findings

On September 30, 2004, EPA signed a Record of Decision (ROD) for the STP Site. The ROD for the STP Site addressed both the Upland OU and the River OU and identified the following remedial action objectives (RAOs) for the site:

- Reduce risks to human health and the environment presented by sediments and soils containing elevated levels of total radium by reducing soil concentration to levels that are consistent with the requirements outlined in 40 CFR part 192 (the regulations implementing the Uranium Mill Tailings Radiation Control Act) and Illinois Source Material Milling Regulations; and
- Mitigate, to the extent practicable, potential adverse effects to the environment as a result of implementation of remedial activities at the site.

For the STP Upland OU, the ROD selected no further action after completion of the ongoing time-critical removal action at that portion of the site. For the STP River OU, the ROD selected the following remedy:

- Excavation and off-site disposal of contaminated soils and sediments from the site using mechanical ''dry excavation'' techniques. Contaminated materials are those materials within pre-defined excavation envelopes based on extensive site characterization activities that identified materials exceeding 7.2 pCi/g;
- Mitigation and restoration activities to restore aquatic and terrestrial areas of the site, including revegetation of appropriate areas and stabilization of stream banks;
- Monitoring and maintenance of restored areas to assess the effectiveness of stabilization and revegetation measures.

Similar to the removal action at the STP Upland OU, the cleanup at the STP River OU included excavation of materials contaminated with radiation until predetermined verification points were achieved. The predetermined verification points, consisting of specified depths/elevations at numerous points, were based on extensive site characterization data and were designed to remove materials that had been identified as exceeding 7.2 pCi/g.

The ROD specified that the selected remedy for the site is protective of human health and the environment and will not result in hazardous substances, pollutants or contaminants remaining on-site above levels that allow for unlimited use and unrestricted exposure. As a result, institutional controls are not required for the Site.

In a 2005 federal consent decree with the United States, EPA, Department of Interior, and the State of Illinois, Kerr-McGee agreed to perform the remedial design/remedial action (RD/RA) at the STP River OU and to complete the removal action at the STP Upland OU in accordance with the AOC for that portion of the site. Kerr-McGee conducted the RD for the STP River OU as required by the ROD, and the STP River OU was divided into two discreet ''Reaches'' for design and construction purposes. Reach 5A comprises the northern portion of the STP River OU, and extends from the STP property to Gary's Mill Road. Reach 5B comprises the southern portion of the STP River OU and extends from Gary's Mill Road to the river's confluence with Kress Creek. On-site remedial action construction work began in Reach 5A on November 1, 2004, after EPA conditionally approved the remedial design for a portion of that reach. Remedial action work continued in Reaches 5A and 5B of the site during portions of 2005 and 2006. The sequencing of work at the STP River OU depended on Kerr-McGee's progress conducting remedial action work at the related Kerr-McGee Kress Creek site. Kerr-McGee conducted remedial activities at the STP River OU as planned.

Reach 5A of the site was cleaned up using dry excavation methods. Individual excavation areas located along the river bank and/or in the river corridor were isolated with ''super sac'' or sandbag enclosures, and the area within each enclosure was then dewatered so that excavation and restoration work could proceed in relatively dry conditions. A total of 1,432 loose cubic yards of contaminated soil and sediment was removed from Reach 5A. EPA and the State conducted a pre-final inspection of the remedial action work in Reach 5A on August 8, 2006, and determined that Kerr-McGee constructed the remedy for that portion of the site in accordance with the RD plans and specifications. Minor items were identified during the pre-final inspection, which included completing

several plantings and removing some silt fence, and these were completed by August 11, 2006.

Dry excavation of Reach 5B of the site was accomplished by using a pump bypass and dewatering system which (1) Isolated the entire reach with sheet pile diversion and backflow dams, (2) diverted the flow of the West Branch DuPage River through a 48″ bypass pipe, and (3) used dewatering sumps within the Reach to control groundwater in the excavation areas. All excavation work associated with the removal of contaminated materials was completed by September 9, 2006, and all contaminated materials were shipped off-site by September 20, 2006. The pump bypass system remained in operation to complete bank stabilization activities and in-stream habitat enhancements in dry conditions. Under a separate consent decree between Kerr-McGee and the local communities, Kerr-McGee was required to conduct additional habitat enhancement activities that were not required by the 2005 federal consent decree. These additional activities necessitated the pump bypass system operating for a longer period of time than would have been required to achieve the requirements of the ROD and the 2005 federal consent decree.

EPA and the State conducted a pre-final inspection of the remedial action work in Reach 5B on September 29, 2006, and determined that Kerr-McGee constructed the remedy for that portion of the site in accordance with the RD plans and specifications.

Cleanup Goals

Contaminated areas at the Kerr-McGee STP site were identified by the installation of hundreds of soil and sediment borings where gamma radiation logging was conducted to determine the lateral and vertical extent of contamination. To verify that the cleanup goals were achieved at the STP Upland OU, confirmatory soil samples were collected and the results were documented in the Final Removal Action Report, dated September 12, 2006. Compliance with the 7.2 pCi/g cleanup standard in the STP River OU was determined using field surveys to verify that excavation in the river and flood plain had achieved the identified elevations and lateral extent where contamination was deposited.

In accordance with the 2005 federal consent decree, the extensive excavation and radiation logging, and the field surveys document the successful completion of the remedial action and show that verification soil samples are not necessary. In addition, the 7.2 pCi/g cleanup standard at the River OU is a residential cleanup number which represents a conservative standard for the reasonably anticipated uses of the River area.

Operation and Maintenance

There are no remaining operation and maintenance requirements for the Kerr-McGee STP Site. All response activities are complete and all physical components of the response have been removed.

Five-Year Review

Hazardous substances will not remain at the site above levels that allow unlimited use and unrestricted exposure after the completion of the remedial action. Pursuant to CERCLA section 121(c), and as provided in the current guidance on Five Year Reviews: OSWER Directive 9355.7–03B–P, Comprehensive Five-Year Review Guidance, June 2001, five-year reviews are not required for this site.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion of this site from the NPL are available to the public in the information repositories and at *www.regulations.gov*.

Determination That the Site Meets the Criteria for Deletion in the NCP

The NCP (40 CFR 300.425(e)) states that a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Illinois, has determined that all required response actions have been implemented and no further response action by the responsible parties is appropriate.

V. Deletion Action

EPA, with concurrence from the State of Illinois through the Illinois Environmental Protection Agency, has determined that all appropriate response actions under CERCLA have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective April 22, 2013 unless EPA receives adverse comments by March 21, 2013. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Radiation protection, Radionuclides, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 28, 2013.

Susan Hedman,

Regional Administrator, Region 5.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing ''Kerr-McGee (Sewage Treatment Plant)'', ''West Chicago'', ''IL''.

[FR Doc. 2013–03595 Filed 2–15–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 771

Federal Transit Administration

49 CFR Part 622

[Docket No. FHWA–2012–0092]

FHWA RIN 2125–AF46
FTA RIN 2132–AB04

Environmental Impact and Related Procedures

AGENCY: Federal Highway Administration, Federal Transit Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Highway Administration (FHWA) and Federal Transit

Administration (FTA) joint procedures that implement the National Environmental Policy Act (NEPA) by enacting a new categorical exclusion (CE) for emergency actions as required by the Moving Ahead for Progress in the 21st Century Act (MAP–21). The final rule modifies the existing lists of FHWA and FTA CEs and expands the existing CE for emergencies to include emergency actions as described in MAP–21 and pursuant to this rulemaking.

DATES: Effective February 19, 2013.

FOR FURTHER INFORMATION CONTACT: For the FHWA: Adam Alexander, Office of Project Delivery and Environmental Review, (202) 366–1473, or Jomar Maldonado, Office of the Chief Counsel, (202) 366–1373, 1200 New Jersey Ave. SE., Washington, DC 20590–0001. For the FTA: Maya Sarna at (202) 366–5811, Office of Planning and Environment; or Dana Nifosi at (202) 366–4011, Office of Chief Counsel. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On July 6, 2012, President Obama signed into law MAP–21 (Pub. L. 112–141, 126 Stat. 405), which contains new requirements that the FHWA and FTA, hereafter referred to as the ''Agencies,'' must meet in complying with NEPA (42 U.S.C. 4321 *et seq.*). Section 1315(a) of MAP–21 required the Secretary of Transportation to engage in rulemaking to categorically exclude from the requirements to prepare an environmental assessment (EA) or environmental impact statement (EIS) under 23 CFR part 771, the repair or reconstruction of any road, highway, or bridge damaged by an emergency that is either (1) declared by the Governor of the State and concurred in by the Secretary; or (2) declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) if such repair or reconstruction activity is in the same location with the same capacity, dimensions, and design as the original road, highway, or bridge as before the declaration; and is commenced within a 2-year period beginning on the date of the declaration. In addition, pursuant to section 1315(b) of MAP–21, the Secretary must ensure that the rulemaking helps conserve Federal resources and protect public safety and health by providing for periodic evaluations to determine whether reasonable alternatives exist to roads, highways, or bridges that repeatedly require repair and reconstruction activities.

The Agencies published a notice of proposed rulemaking (NPRM) addressing the section 1315 MAP–21 requirements on October 1, 2012 (77 FR 59875). This final rule makes changes to 23 CFR 771.117(c)(9) and adds 771.118(c)(11) in response to MAP–21's section 1315 requirements and the comments provided during the NPRM comment period.

It should be noted that the Agencies jointly published an NPRM in March 2012 (77 FR 15310) and subsequently a final rule on February 7, 2013 (78 FR 8964), which, among other changes, created section 771.118. The Agencies are calling attention to this new section because it will be referenced throughout this final rule. Section 771.118 contains categorically excluded actions and examples, as well as criteria, for FTA actions. With this revision, section 771.117 applies to FHWA actions, and section 771.118 applies to FTA actions.

It is important to emphasize that the availability of the CEs for emergency actions is subject to the same requirements for the use of any other CE in part 771. First, the CEs, like any other CE in part 771, apply to the Agencies' actions. Second, the use of the emergency-related CEs would include an identification of any unusual circumstances requiring further environmental studies to determine if the CE classification is proper (23 CFR 771.117(b) and 771.118(b)). Examples of unusual circumstances include significant environmental impacts, substantial controversy on environmental grounds, significant impacts on properties protected by 23 U.S.C. 138/49 U.S.C. 303 (also known as ''section 4(f)'' of the Department of Transportation Act) or section 106 of the National Historic Preservation Act (NHPA), or inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action (23 CFR 771.117(b)(1)–(4) and 23 CFR 771.118(b)(1)–(4)). Third, the availability of the CEs does not exempt the applicability of other environmental requirements such as, but not limited to, section 7 of the Endangered Species Act (ESA), section 106 of NHPA, section 404 permits under the Clean Water Act (CWA), 23 U.S.C. 138/49 U.S.C. 303 (section 4(f)), and bridge permits under the General Bridge Act of 1946. These requirements must be met regardless of the applicability of the CE under NEPA. Some of these requirements may involve major Federal actions for other Federal agencies (e.g., approvals or issuance of permits) that would trigger a different NEPA process for those Federal agencies. Early coordination amongst the applicants and the Federal agencies is highly recommended to prevent a conflict in the Federal agencies' NEPA, permitting, and other review processes.

Fourth, the action must comply with NEPA requirements relating to connected actions and segmentation (*see, e.g.,* 40 CFR 1508.25 and 23 CFR 771.111(f)). The Agencies recognize the importance of ensuring that projects are not improperly segmented. The action must have independent utility, connect logical termini when applicable (i.e., linear facilities), and not restrict consideration of alternatives for other reasonably foreseeable transportation improvements. Finally, a CE may not be established if the action normally has significant environmental impacts either individually or cumulatively and may not be applied to a proposed action if there are unusual circumstances. For example, a CE may not be used if the action induces significant impacts to planned growth or land use for the area; requires the relocation of significant numbers of people; has significant impacts on any natural, cultural, recreational, historic, or other resource; involves significant air, noise, or water quality impacts; or has significant impacts on travel patterns (23 CFR 771.117(a) and 23 CFR 771.118(a)).

Notice of Proposed Rulemaking

The October 1, 2012, NPRM proposed to expand 23 CFR 771.117(c)(9) with a new subsection (ii) that provided for ''[t]he repair or reconstruction of any road, highway, or bridge that is in operation or under construction when damaged by an emergency declared by the Governor of the State and concurred in by the Secretary, or for a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121) if the repair or reconstruction activity is: (A) [i]n the same location with the same capacity, dimensions, and design as the original road, highway, or bridge as before the declaration, and (B) [c]ommenced within a 2-year period beginning on the date of the declaration'' (77 FR 59878). In addition to the proposed CE language, the NPRM sought comments on whether the emergency activities categorically excluded under the revised CE should also include the following: (1) Construction of engineering and design changes to a damaged facility to meet current design standards; (2) repair and reconstruction of adjacent transportation facilities within the right-of-way damaged by the emergency (such as bike paths or ancillary structures); (3) construction of betterments to the

damaged facilities beyond those eligible under 23 U.S.C. 125; (4) construction of engineering and design changes to a damaged facility for the purpose of seismic retrofitting; (5) construction of engineering and design changes to a damaged facility to deal with future extreme weather events and sea level rise; and (6) construction of other engineering and design changes to a damaged facility to address concerns such as safety and environmental impacts.

The NPRM also sought comment on whether the CE should include actions to repair, reconstruct, or replace a facility that has experienced catastrophic failure regardless of cause. Catastrophic failure was described as the sudden and complete failure of a major element or segment of the facility that causes a devastating impact on transportation services.

Additionally, the NPRM requested comments on approaches to addressing section 1315(b) of MAP–21. Specifically, the Agencies requested comments on a proposal to address the requirements of this section in future rulemakings required by other provisions of MAP–21. Section 1106 of MAP–21 amends 23 U.S.C. 119 by requiring State departments of transportation (State DOTs) to develop risk-based asset management plans. The MAP–21 also created several new transit programs under chapter 53 of title 49 U.S. Code. The Agencies requested comments on several questions related to the periodic evaluation requirements in section 1315(b).

The comment period for the NPRM closed on November 30, 2012, and additional comments were received on December 3, 2012. All comments were considered in the development of this final rule.

Summary Discussion of Comments Received in Response to the NPRM

Comments were received from 12 State DOTs, 7 public interest groups, 4 transit agencies, and 2 Federal agencies. Commenters provided 111 comments on the NPRM, which were organized thematically and according to whether the comment addressed section 1315(a) or section 1315(b) of MAP–21, or were general comments.

General Comments

Comments generally were supportive of the proposed rulemaking. Commenters offered specific comments to the statutory language adopted from section 1315(a) of MAP–21; provided input on the disposition of section 1315(b); commented on the six actions proposed for inclusion in the CE; and proposed revised language for consideration in the final rule. Eleven State DOTs, six public interest groups, one rail agency, and three transit agencies provided comments on the six additional activities listed in the NPRM for comment (see Section-by-Section Discussion of Comments below). The commenters indicated support for one or more of the listed activities. Seven State DOTs, three public interest groups, and two transit agencies expressed support for all six proposed activities.

Regarding section 1315(b), one public interest group and seven State DOTs commented on the NPRM that they agreed that the periodic evaluations should be part of risk-based asset management plans developed by the State. The Agencies agree with this proposal and are addressing the periodic evaluations required under MAP–21 section 1315(b) through a rulemaking implementing section 1106 of MAP–21 and through changes to implement the new programs authorized by MAP–21. As discussed in the Section-by-Section Discussion of Comments below, the Agencies relied on section 1315(b)'s requirement to ''ensure that the rulemaking helps conserve Federal resources and protect public safety and health'' in making improvements to the final CE.

One commenter commented that ''once an event is determined to qualify for CE status, this decision should be treated as permanent and not subject to subsequent reconsideration.'' All NEPA decisions under 23 CFR 771.117 are subject to compliance with sections 771.117(b) and 771.129(c). The NEPA decisions under 23 CFR 771.118 are subject to compliance with sections 771.118(b) and 771.129(c). The final rule does not eliminate these requirements. Additional review resulting from unusual circumstances may warrant changes to the type of environmental review for a particular proposed project to ensure the Agencies provide the appropriate degree of consideration for environmental impacts resulting from proposed actions.

One commenter recommended that the Agencies establish a flexible process for determining when CEs should be used rather than relying on a constraining list of activities eligible for CEs. The commenter also suggested providing set time limits on a project-by-project basis for the completion of NEPA. The final rule does not include either suggestion; the ideas proposed by the commenter fall outside the scope of this rulemaking.

Section-by-Section Discussion of Comments

Authorities for 49 CFR Part 622

No comments were received on this proposed change. The amendment will add a reference to MAP–21 and section 1315 of that statute. The FTA had considered adding a reference to section 20017 of MAP–21, which created the new FTA Emergency Relief program. Since that time, FTA has determined that section 20017 does not provide authority for the CE being added by this rulemaking and is not needed for part 622. For information on the Agencies' authority for this rulemaking, see the section entitled ''Statutory/Legal Authority for This Rulemaking'' below.

Authorities for 23 CFR Part 771

No comments were received on this change. The amendment will add a reference to MAP–21 and section 1315 of that statute. The FHWA had considered adding a reference to section 1106 of MAP–21, which created the requirement for risk-based asset management plans. Since that time, FHWA has determined that section 1106 does not provide authority for the CE language being added by this rulemaking and is not needed for part 771. For information on the Agencies' authority for this rulemaking, see the section entitled ''Statutory/Legal Authority for This Rulemaking'' below.

Section 771.117(c)(9)

Three public interest groups, one rail agency, six State DOTs, and two transit agencies commented that the final rule should include language that expands the CE to cover catastrophic failures regardless of cause. One commenter specifically noted that a scenario could occur where there is a catastrophic failure of a major bridge or tunnel from a disaster that does not rise to the level of an emergency declared by the Governor and concurred in by the Secretary, or a disaster or emergency declared by the President under the Stafford Act. One commenter noted that ''the effects of catastrophic failures to public safety and transportation are essentially the same as emergencies, and the need to quickly and safely repair the failures remains the same.'' The commenter encouraged the Agencies to define all qualifying terms such as ''sudden and complete failure'' and ''devastating impact'' to account for different temporal and spatial scales. For example, ''a bridge may be rendered unusable due to river scouring over several months without the bridge completely collapsing; the impact of such a bridge failure would be

devastating to the public and the economy in many areas'' of a State.

The Agencies have decided to limit the CE language to the same circumstances that would trigger the FHWA and FTA emergency relief programs. Under the Agencies' emergency relief programs, the damage to the facility must have been caused by a natural disaster or a catastrophic failure from an external cause. Limiting the new CE language to the same circumstances that trigger the emergency relief programs would ensure consistency. It also will avoid the need to create a separate and independent process for the Secretary's concurrence with a Governor's emergency declaration for catastrophic failures that do not qualify for the emergency relief programs.

The Agencies are amending section 771.117(c)(9) by adding the introductory phrase ''[t]he following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121).'' This introductory phrase clarifies that all the actions covered in the amended and new CE language must be the result of the Agencies' (or their applicants or recipients') efforts to restore surface transportation in the aftermath of Presidentially declared emergency or disasters, or emergencies declared by the Governor of a State and concurred in by the Secretary.

This introductory language also is included in 23 CFR 771.118(c)(11) with the same intent. As mentioned above, categorically excluded FTA actions are now found at 23 CFR 771.118. Through this final rule, FTA is incorporating the new emergency CE established pursuant to section 1315 of MAP–21 by adding a new CE at section 771.118(c)(11) that is equivalent to the CE applicable to FHWA found at 23 CFR 771.117(c)(9). This new CE covers emergency repairs under 49 U.S.C. 5324 for public transportation infrastructure ''damaged by an incident resulting in an emergency declared by the Governor of the State and concurred by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121).''

Section 771.117(c)(9)(i)

One public interest group and three State DOTs expressed a desire to maintain the CE currently found in 23 CFR 771.117(c)(9) to ensure that flexibility is maintained with the final rule to continue categorically excluding emergency repairs under 23 U.S.C. 125, the FHWA Emergency Relief Program.

The Agencies continue to believe that ''emergency repairs'' do not typically result in significant environmental impacts. ''Emergency repairs'' are defined in the FHWA Emergency Relief Program regulations as ''[t]hose repairs including temporary traffic operations undertaken during or immediately following the disaster occurrence for the purpose of: (1)[m]inimizing the extent of damage, (2) [p]rotecting remaining facilities, or (3) [r]estoring essential traffic'' (23 CFR 668.103). The original language in section 771.117(c)(9) is retained as new paragraph (c)(9)(i) to continue covering these types of actions. The CE language for emergency repairs under 23 U.S.C. 125 was not carried forward to section 771.118(c)(11), however, due to its lack of applicability to FTA actions.

Section 771.117(c)(9)(ii)

One rail agency and three public interest groups commented on the section 1315(a) language noting that the language was overly restrictive and should be expanded to include infrastructure components specific to rail and transit infrastructure. One commenter proposed specific language to amend section 771.117(c)(9)(ii) to read ''[t]he repair or reconstruction of any road, highway, bridge, *or transit facility* that is in operation or under construction * * *'' and to amend proposed 23 CFR 771.117(c)(9)(ii)(A) to read ''[i]n the same location with the same capacity, dimensions, and design as the original road, highway, bridge, *or transit facility* as before the declaration * * * '' Another commenter proposed adding railroad right-of-way, railroad bridge, or railroad tunnel to proposed 23 CFR 771.117(c)(9)(ii)(A). Another commenter recommended clarification of the wording to include ''critical transportation infrastructure including but not limited to any road, highway, *rail,* bridge, tunnel, or *dock* * * *''

The Agencies added the term ''transit facility'' to the list of transportation facilities that are subject to the new CE language at sections 771.117(c)(9)(ii) and 771.118(c)(11)(ii). The addition of this term expands the CE language to include the emergency repair or reconstruction of all transit facilities following an emergency or disaster, not just those that are co-located on roads or highways. The term ''transit facility'' includes rail transit and components of ferry terminals and systems, such as docks, piers, platforms, pedestrian loading structures, and ticketing facilities. This addition goes further than the list of transportation facilities provided in section 1315 of MAP–21. Documentation supporting this expansion is discussed below.

The final rule also adds section 771.118(c)(11)(i) to cover emergency repairs pursuant to 49 U.S.C. 5324. This addition will cover activities under the Public Transportation Emergency Relief Program (49 U.S.C. 5324) created by section 20017 of MAP–21. The types of activities covered (i.e., emergency repair of transit facilities) are analogous to the activities covered by the existing CE for emergency repairs in FHWA's Emergency Relief Program.

To support the inclusion of public transportation infrastructure in sections 771.117(c)(9) and 771.118(c)(11), FTA revisited and cross-referenced the substantiation record for FTA's March 2012 NEPA NPRM (Docket No. FTA–2011–0056–0002), which proposed a new list of CEs for FTA (77 FR 15310 (Mar. 15, 2012)). A substantiation record summary is provided in the docket for this rulemaking. The FTA also identified new supporting documentation, which includes, but is not limited to: The FTA documented CEs and Findings of No Significant Impact for past disaster-related projects, and for repair and reconstruction projects for transit facilities. The FTA also utilized comparative benchmarking, which provides support for the additional CE language by using the experience of other Federal agencies that conduct actions of similar nature, scope, and intensity. Although some of the actions covered by this added language might be covered by other CEs listed in sections 771.117 and 771.118, there is value in adding this CE language specifically for the FTA's Emergency Relief Program for ease of application when a practitioner is faced with emergency or disaster-related actions.

One commenter indicated that it was not clear why bridges are specifically mentioned, but other critical infrastructure such as tunnels and docks were not included. The commenter recommended wording to add tunnels and docks.

As discussed above, the term ''transit facility'' includes rail transit and components of ferry terminals and systems, such as docks, piers, platforms, pedestrian loading structures, and ticketing facilities. The Agencies have included ''tunnels'' in the list of transportation facilities covered by the CE language. Damaged tunnels can result in as much traffic and transit disruption as damaged bridges and therefore, deserve similar consideration. The types of tunnel-related actions

necessitated by emergencies include dewatering to remove flood waters; repairs to electrical and mechanical systems; repairs to suspended ceilings and to ceiling or wall tiles; and, for highway tunnels, repairs to pavement. The environmental impacts from these types of actions would be similar for both highway and transit tunnels. Highway and transit tunnels are structurally and functionally similar, although design details and equipment are different because a tunnel is designed to address the operating needs of the mode(s) the tunnel serves. For example, the air vent system for a highway tunnel typically would be more extensive than for a tunnel serving only transit, but repairs performed on highway tunnel air vents within the right-of-way would not be expected to have significant environmental effects. In the Agencies' experience, the level of impacts for these actions is typically not significant because the actions are limited to the existing right-of-way and must substantially conform to the preexisting design, function, and location of the original facility.

The CEs would only cover the repair, reconstruction, retrofit, or replacement of an existing tunnel as long as it occurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original. Including those conditions in the text of the CE ensures its applicability does not extend to construction of new tunnels. There may be situations when the nature of the damage to a tunnel (e.g., complete collapse) or the activity needed (e.g., substantial reconstruction or replacement) would warrant careful consideration of unusual circumstances. In these situations, the reviewer must determine if further environmental studies are needed to determine if the CE classification is proper or if a different class of NEPA review is warranted.

In response to the six questions noted below, seven State DOTs, three public interest groups, and one transit agency commented overall on the questions and proposal, stating that the Agencies needed to allow for flexible interpretation of the language in section 1315(a) of MAP–21. A specific concern with section 1315(a) was that the language could preclude use of the CE for projects that meet current design standards. The commenters encouraged an interpretation of this language to mean that the project meets the ''present-day equivalent of the original design standards for the facility.'' One commenter specifically noted that they have experienced frequent emergency projects in recent years with extreme weather events that ''bring high rainfall and runoff rates, as well as tidal surges that lead to river and marsh flows over top of roads, bridges and culverts.'' The commenter noted this has resulted in washed out pipe culverts and collapse of the roadways over the culverts. The commenter also reported experience with pavement and long-term road closures due to storm surge events on coastal roadways resulting in interruption of travel and evacuation routes. The commenter noted that in-kind replacements guarantee repeat failures and are a waste of taxpayer money. In addition, another commenter noted that the Federal Emergency Management Agency (FEMA) includes some of the proposed activities as a CE under 44 CFR 10.8(d)(2)(xv) (FEMA CE (xv)) for the''[r]epair, reconstruction, restoration, elevation, retrofitting, upgrading to current codes and standards, or replacement of any facility in a manner that substantially conforms to the preexisting design, function, and location.''

The Agencies agree with these comments. Upgrades to current codes and standards can avoid repetitive damage to transportation facilities and can also help protect public safety and health. Additionally, in certain situations, environmental conditions have changed to a degree that would warrant consideration of more protective measures than the existing codes and standards. Allowing these actions for damaged facilities is consistent with MAP–21's section 1315(b) requirement that the Secretary ensure the rule helps conserve Federal resources and protect public safety and health.

The Agencies have relied on their past experience as well as on benchmarking CEs covering similar activities, such as on the FEMA CE (xv) (44 CFR 10.8(d)(2(xv)), to modify the language originally proposed in 23 CFR 771.117(c)(9)(ii) of the NPRM for the final rule. The FEMA's CE is explicitly for ''[r]epair, reconstruction, restoration, elevation, retrofitting, upgrading to current codes and standards, or replacement of any facility in a manner that substantially conforms to the preexisting design, function, and location.'' The final rule modifies the proposed 23 CFR 771.117(c)(9)(ii) language and establishes 771.118(11)(ii) to read, ''[t]he repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action: (A) [o]ccurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and [i]s commenced within a 2-year period beginning on the date of the declaration.'' The Agencies' repair, reconstruction, restoration, retrofit, and replacement actions are similar to FEMA's actions of Federal financial assistance for transportation facilities. The Agencies' and FEMA's actions are typically carried out as permanent work that is eligible under a post-disaster assistance program. The only difference between a FEMA-funded and a FHWA- or FTA-funded repair, reconstruction, restoration, retrofit, or replacement of road, bridge, or transit facility is the funding source. The nature and typical level of impacts are similar, particularly when the actions substantially conform to the preexisting design, function, and location. In the Agencies' experience the level of impacts for these actions are typically not significant because the actions are limited to the existing right-of-way and must substantially conform to the preexisting design, function, and location of the original facility. This is consistent with FEMA's availability and use of FEMA CE (xv) and a review of FEMA's publicly available NEPA documents. A substantiation record summary based on benchmarking is provided in the docket for this rulemaking.

The term ''reconstruction'' means the demolition and rebuilding of a damaged facility, or part of a damaged facility, within the same footprint of the original. The term ''retrofitting'' refers to the addition of elements to a damaged facility to extend the life of the facility or to conform to a protective measure (e.g., earthquake retrofit, measure to reduce flood vulnerability, safety). The term ''replacement'' is meant to capture situations where a comparable facility is needed. These actions are covered by the new CE language as long as they occur within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original.

The phrase ''substantially conforms to the preexisting design, function, and location'' is used to limit the amount of ground disturbance or resource impact. The phrase ''substantially conforms'' allows for some deviation from the

original footprint, design, and function, but does not allow construction of a facility that is substantially different in nature. This addition goes beyond the language provided in section 1315 of MAP–21, but is consistent with the Agencies' practice in funding these actions. Work is restricted to the area within the existing right-of-way as an additional measure to limit the likelihood of potential impacts to protected resources. The phrase ''which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction'' allows for the restoration of the facility taking into account up-to-date codes and standards, but also allows for situations where restoration should accommodate changed conditions. For example, new flood risk information could be taken into account in the design of the transportation facility even when the community has not adopted a higher floodplain code. Another example is when the reconstruction of water crossing presents an opportunity to address fish passage concerns. In these situations conditions have changed since the original construction that may warrant a construction approach that goes beyond existing codes and standards. As previously noted, even if the new CE language applies, the Agencies must comply with the requirements of other environmental laws (e.g., section 106 under NHPA, section 404 of the CWA, 23 U.S.C. 138/49 U.S.C. 303 (section 4(f)), section 7 under ESA, bridge permits under the General Bridge Act of 1946) to address impacts in those unique situations where protected resources are present in the existing right-of-way.

The language in the final rule addresses the six additional activities proposed in the NPRM and comments received from the public on the inclusion of these activities. Below is a discussion of comments received on each of the proposed additional activities and how the final rule language reflects modifications to the proposal in response to these comments.

(1) *Construction of engineering and design changes to a damaged facility to meet current design standards*

One commenter expressed support for including this activity as a CE, noting that FEMA includes this activity as a CE under 44 CFR 10.8(d)(2)(xv), which allows for a CE for the ''[r]epair, reconstruction, restoration, elevation, retrofitting, upgrading to current codes and standards, or replacement of any facility in a manner that substantially conforms to the preexisting design, function and location.'' Others commented in support of this provision with one noting that ''this provision would help to ensure that emergency repair projects can qualify for a CE when they are designed to meet current standards.''

The Agencies agree with these comments and modified the proposed language in the NPRM. The new sections 771.117(c)(9)(ii) and 771.118(c)(11)(ii) provide for the ''repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action: (A) [o]ccurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and [i]s commenced within a 2-year period beginning on the date of the declaration.'' A substantiation record summary which includes benchmarking FEMA's CE(xv), is provided in the docket for this rulemaking.

(2) *Repair and reconstruction of adjacent transportation facilities within the right-of-way damaged by the emergency (such as bike paths or ancillary structures);*

One commenter noted that ''adjacent facilities often are affected by emergencies and are in need of emergency repairs at the same time primary facilities are repaired. Not repairing adjacent facilities may expose the primary facility to further damage and increase the risk of repeated failure.'' Another commenter noted that many of the listed activities are already covered under 23 CFR 771.117(c) and expressed support for including this activity in the CE. One commenter recommended inclusion of ''transportation facilities and infrastructure damaged by the emergency'' in this provision.

The Agencies agree with these comments and have included ancillary transportation facilities in the final CE language. Ancillary transportation facilities, such as pedestrian/bicycle paths, bike lanes, and streetscape, contribute to the function of the road, highway, bridge, tunnel, or transit facility and are co-located to provide for the overall functioning of the transportation system network. Permanently repairing such adjacent facilities that previously existed or are under construction at the time of the incident and are co-located with the primary transportation facility ensures that already approved transportation facilities are fully replaced and provides for the complete functioning of the transportation network damaged by the incident. With this change, the CE language would cover the whole project when the restoration of the road, highway, bridge, tunnel, or transit facility includes repairing damaged ancillary facilities. In the Agencies' experience, the level of impacts of restoring damaged ancillary transportation facilities is typically not significant when they are limited to the existing right-of-way and must substantially conform to the preexisting design, function, and location of the original facility. This is consistent with FEMA's availability and use of FEMA CE (xv) and a review of FEMA's publicly available NEPA documents. A substantiation record summary based on benchmarking is provided in the docket for this rulemaking.

(3) *Construction of betterments to the damaged facilities beyond those eligible under 23 U.S.C. 125;*

Two commenters noted that inclusion of betterments would provide the opportunity to address scenarios where a culvert affected by an emergency is too small to handle the current debris flows. Inclusion of betterments would provide opportunities to install appropriately sized culverts and to armor bridge abutments as part of permanent repairs resulting from an emergency and help reduce long-term environmental impacts by reducing the frequency of catastrophic failure. One commenter stated that some betterments are minor activities, such as installation of riprap or raising the elevation of the roadway, and that these activities may add to the safety and life expectancy of the facility. One commenter noted that many betterments are already listed CEs. Additionally, other commenters expressed concerns about the lack of specificity as to what constituted betterments beyond those eligible under 23 U.S.C. 125.

The FHWA defines ''betterments'' as ''[a]dded protective features, such as rebuilding of roadways at a higher elevation or the lengthening of bridges, or changes which modify the function or character of a highway facility from what existed prior to the disaster or catastrophic failure, such as additional lanes or added access control'' (23 CFR 668.103). Under the FHWA Emergency Relief Program, betterments are eligible

for Federal assistance if they are economically justified in accordance with 23 CFR 668.109(b)(6). Betterments may add protective features within the right-of-way such as rebuilding roadways at a higher elevation, installation of riprap, raising bridges, increasing the size of drainage structures, installation of seismic retrofits on bridges, and adding scour protection at bridges. Betterments may also add protective features that do not take place in the right-of-way such as relocating roadways or stabilizing slide areas. Another group of betterments involve the change of function or character of the transportation facility such as adding grade separations and improving access control. Upgrades to current codes and standards are eligible actions but are not considered to be ''betterments.'' The FTA does not currently use the term ''betterments.''

The Agencies believe that they do not need to specifically call out ''betterments'' in the new CE language because it is not a term of art that is used in the FTA Emergency Relief Program. The Agencies agree that the new CE language can include some improvements on the original project or facility that was damaged, particularly if they help conserve Federal resources and protect public safety and health (*see* MAP–21 sec. 1315(b)). Therefore, improvements that are related to the covered activities (i.e., repair, reconstruction, restoration, retrofitting, or replacement) and that meet the specified conditions (i.e., occur within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original) are covered by the new CE language. For example, enlarging a culvert or armoring activities may be covered if they are needed for the upgrade of the facility to current codes, conditions, and standards.

One commenter specifically commented that betterments ''may either deliberately or inadvertently facilitate increased traffic capacity and/or cause significant ground disturbance in previously undisturbed areas. These actions could significantly impact archaeological properties, historic facilities (such as the road or bridge needing repair), or a historic district that surrounds or is adjacent to the facility needing repair'' and noted that compliance with 36 CFR part 800 typically is required for actions of this type. The commenter acknowledged that a CE does not equate to a waiver of section 106 requirements, but thought that confusion may result on the part of agencies responsible for fulfilling NEPA requirements on the project. The commenter recommended that the final rule clarify that the CE does not exempt the Agencies from other regulatory requirements and should ''specify extraordinary circumstances as an integral element of the categorical exclusion to ensure that where appropriate, the presence of historic properties may require a more extensive environmental review under NEPA.''

The Agencies agree with the comment. The Agencies have clarified throughout the preamble of this final rule the requirement for consideration of unusual circumstances, which give rise to the potential for significant impacts on properties protected by 23 U.S.C. 138/49 U.S.C. 303 (section 4(f)) or section 106 of NHPA (sections 771.117(b)(3) and 771.118(b)(3)), when applying the CE to a proposed action. The Agencies also acknowledge the need for compliance with other environmental requirements in addition to NEPA. Finally, through the language in this final rule, the Agencies are applying this CE only to those improvements that are part of the reconstruction, retrofit, or replacement action when they occur within the existing right-of-way and substantially conform to the pre-existing design, function, and location as the original.

(4) *Construction of engineering and design changes to a damaged facility for the purpose of seismic retrofitting;*

One commenter suggested broadening this provision to allow for seismic retrofitting prior to a natural disaster or structure failure in addition to seismic retrofitting following an event that caused damage in order to extend the life of the facility. The commenter noted that seismic retrofitting to prevent damage might result in less damage to the environment than waiting to perform seismic retrofitting activities after damage has occurred. Another commenter expressed support for inclusion of seismic retrofitting activities in the CE.

Seismic retrofits of a damaged facility (i.e., road, highway, bridge, tunnel, transit facility, or ancillary transportation facility) would be covered by the new CE language. The new CE language specifically addresses the need for expediency in the restoration of transportation infrastructure damaged by qualifying events and to capitalize on the opportunity created by these events to incorporate resiliency principles in these restoration activities. Incorporation of resiliency principles would help conserve Federal resources by avoiding repetitive damage to these facilities as a result of similar disasters and to avoid significant damage from other potential hazards. The Agencies agree that improving surface transportation facilities before a disaster strikes is the ideal approach. Seismic retrofits prior to a disaster are outside the scope of section 1315(a) of MAP–21 and this regulation. However, the Agencies note that there are other CEs in 23 CFR part 771 that could be relied upon to make improvements to a transportation facility prior to a disaster such as 23 CFR 771.117(c)(12), (c)(8), (d)(1), (d)(2), and (d)(3) for FHWA actions and 23 CFR 771.118(c)(1), (c)(2), (c)(8), (d)(1), and (d)(6) for FTA actions.

(5) *Construction of engineering and design changes to a damaged facility to deal with future extreme weather events and sea level rise;*

One commenter expressed support for inclusion of this provision and provided an example of improvements made to a bridge, and processed as a CE, that allowed for improvements to the bridge as part of emergency repairs that increased the likelihood of the structure withstanding the stresses of future extreme weather events. The commenter also provided other examples of roadways that were improved to accommodate future storm events after being washed out. Another commenter expressed support of this provision and noted that recent severe storm events on the East Coast underscore the importance of providing flexibility to States to easily update infrastructure design to upgrade facilities after storm events to accommodate future storm events.

The Agencies agree that the new CE language should allow for some improvements on the original transportation facility based on the Agencies' experience with past actions, consideration of FEMA's experience with its CE (xv), and the determination that those types of improvements do not typically have a significant effect on the environment. Changes to a damaged facility that are related to the covered activities (i.e., repair, reconstruction, restoration, retrofitting, or replacement) and that meet the specified conditions (i.e., occur within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original) are covered by the new CE language. The phrase ''substantially conforms to the preexisting design, function, and location'' is used to limit the amount of ground disturbance or resource impact. The phrase ''substantially conforms'' allows for some deviation from the original footprint, but does not allow construction of a facility that is substantially different in nature. Improvements that are not covered by

the new CE language may be covered by other CEs in 23 CFR part 771 such as 23 CFR 771.117(c)(12), (c)(8), (d)(1), (d)(2), and (d)(3) for FHWA actions and 23 CFR 771.118(c)(1), (c)(2), (c)(8), (d)(1), and (d)(6) for FTA actions.

One commenter raised concerns about the potential impacts of these types of actions on the human environment. The commenter provided that, as an example, projects covered by this provision could involve potential relocation of infrastructure to accommodate sea level rise. One commenter proposed inclusion of additional text should the final rule include the six proposed additional activities: ''(7) Modifications to the design or betterments to a damaged facility shall be a CE if such changes do not expand the footprint of the facility or have negative environmental impacts that would be greater than a reconstruction without such modifications or betterments.''

The Agencies agree that some actions under the proposed activity could raise environmental impact concerns, which is one of the reasons for consideration of unusual circumstances prior to applying the CE. In the Agencies' experience the level of impacts for these actions is normally not significant. The Agencies have created restrictions that limit the amount and level of environmental impacts, including impacts on the human environment. The phrase ''substantially conforms to the preexisting design, function, and location'' is used to limit the amount of ground disturbance or resource impact. The phrase ''substantially conforms'' allows for some deviation from the original footprint, but does not allow construction of a facility that is substantially different in nature. In addition, work is restricted to the area within the existing right-of-way as an additional measure to limit impacts to protected resources. The proposed actions must continue to meet the requirements of other environmental laws (e.g., section 106 under NHPA, section 404 of CWA, 23 U.S.C. 138/49 U.S.C. 303 (section 4(f)), section 7 under ESA, bridge permits under the General Bridge Act of 1946) when protected resources are present in the existing right-of-way. The additional safeguards provided under other applicable laws and regulations provide further assurance that the activities included in the new FHWA and FTA CEs do not have the potential to result in significant impacts on the human environment. This is consistent with FEMA's availability and use of FEMA CE (xv) and a review of FEMA's publicly available NEPA documents. A substantiation record summary based on benchmarking is provided in the docket for this rulemaking.

(6) *Construction of other engineering and design changes to a damaged facility to address concerns such as safety and environmental impacts.*

Two commenters supported allowing proactive approaches to natural hazards under the emergency repairs CE, like design and engineering changes to address earthquakes, extreme weather events, sea level rise, and other safety and environmental impacts. One commenter stated that including these activities in the CE will allow States and transit agencies to reduce the impact of future emergency events, rather than limiting the agencies' efforts merely to reacting to emergencies. One commenter expressed support for this provision noting the example modifications to a roadway following a washout event that provided the opportunity for the State DOT to modify the roadway revetment and protect sea turtle nesting habitat. One commenter noted that these activities should be expanded to include transit related infrastructure.

The final CE language in sections 771.117(c)(9)(ii) and 771.118(c)(11)(ii) includes engineering and design changes to address safety and environmental impacts as long as they are related to the covered activities (i.e., repair, reconstruction, restoration, retrofitting, or replacement) and meet the specified conditions (i.e., occur within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original). As discussed above, the final language includes ''transit facilities'' in the infrastructure covered by the new CE language.

Statutory/Legal Authority for This Rulemaking

The Agencies derive explicit authority for this rulemaking action from 49 U.S.C. 322, which provides authority to ''[a]n officer of the Department of Transportation [to] prescribe regulations to carry out the duties and powers of the officer.'' That authority is delegated to the Agencies through 49 CFR 1.81(a)(3), which provides that the authority to prescribe regulations contained in 49 U.S.C. 322 is delegated to each Administrator ''with respect to statutory provisions for which authority is delegated by other sections in [49 CFR Part 1].'' Included in 49 CFR part 1, specifically 49 CFR 1.81(a)(5), is the delegation of authority with respect to NEPA, the statute implemented by this final rule. Moreover, the Council on Environmental Quality regulations that implement NEPA provide at 40 CFR 1500.6 that ''[a]gencies shall review their policies, procedures, and regulations accordingly and revise them as necessary to insure full compliance with the purposes and provisions of [NEPA].''

Rulemaking Analyses and Notices

The Agencies considered all comments received before the close of business on the comment closing date indicated above, and the comments are available for examination in the docket at the above address. The Agencies also considered comments received after the comment closing date and filed in the docket prior to this final rule.

Immediate Effective Date

The Agencies have determined that this rule be made effective immediately upon publication. The Administrative Procedure Act (5 U.S.C. 553(d)) requires that a rule be published 30 days prior to its effective date unless one of three exceptions applies. One of these exceptions is when the agency finds good cause for a shorter period. Here, the Agencies have determined that ''good cause'' exists for immediate effectiveness of this rule because this rule is expected to apply in many cases that address the immediate need to fund repairs of transit systems facilities and equipment damaged by Hurricane Sandy. Hurricane Sandy affected mid-Atlantic and northeastern States in October 2012, and particularly devastated transit operations in New Jersey and New York. These operations serve about 40 percent of all transit riders in the country. With Congress' passage of supplemental appropriations, Public Law 113–2, that fund FTA's Emergency Relief Program authorized at 49 U.S.C. 5324, immediate promulgation of the categorical exclusion for actions under that program will expand the FTA's ability to support much needed Hurricane Sandy recovery efforts and process these new funding requests in an expeditious manner, while still ensuring that the environment is protected. Thus, it is in the public interest for this final rule to have an immediate effective date. The Agencies acknowledge that although the justification for making this rule immediately effective stems from the need for transit recovery actions in response to Hurricane Sandy, the revisions contained within this final rule will be immediately applicable to a broader suite of the Agencies' funded and approved projects.

Executive Orders 12866 and 13563 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The Agencies have determined that this action would not be a significant regulatory action under section 3(f) of Executive Order 12866 nor would it be significant within the meaning of Department of Transportation regulatory policies and procedures (44 FR 11032). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It is anticipated that the economic impact of this rulemaking would be minimal. The changes that this rule proposes are requirements mandated by MAP–21 increase efficiencies in environmental review by making changes in the Agencies' environmental review procedures.

The activities this final rule adds to sections 771.117(c)(9) and 771.118(c)(11), which are described in section 1315(a), are inherently limited in their potential to cause significant environmental impacts because the use of the CEs is subject to the unusual circumstances provision in 23 CFR 771.117(b) and 23 CFR 771.118(b), respectively. These provisions require appropriate environmental studies, and may result in the reclassification of the NEPA evaluation of the project to an EA or EIS, if the Agencies determine that the proposal involves potentially significant or significant environmental impacts. These changes would not adversely affect, in any material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the Agencies evaluated the effects of this final rule on small entities and anticipate that this action would not have a significant economic impact on a substantial number of small entities. The revision could streamline environmental review and thus would be less than any current impact on small business entities.

Unfunded Mandates Reform Act of 1995

This final rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48). This final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $148.1 million or more in any one year (2 U.S.C. 1532). Further, in compliance with the Unfunded Mandates Reform Act of 1995, the agencies will evaluate any regulatory action that might be proposed in subsequent stages of the proceeding to assess the effects on State, local, and tribal governments and the private sector.

Executive Order 13132 (Federalism Assessment)

Executive Order 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may have a substantial, direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the Agencies have determined that this action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The Agencies have also determined that this action will not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions. The NPRM invited State and local governments with an interest in this rulemaking to comment on the effect that adoption of specific proposals may have on State or local governments. No comments on this issue were provided by State or local governments.

Executive Order 13175 (Tribal Consultation)

The Agencies have analyzed this action under Executive Order 13175, dated November 6, 2000, and believe that it would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

The Agencies have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agencies have determined that it is not a significant energy action under that order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to these programs and were carried out in the development of this rule.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. The Agencies determined that final rule does not contain collection of information requirements for the purposes of the PRA.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 12898 (Environmental Justice)

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and DOT Order 5610.2(a), 91 FR 27534, May 10, 2012, require DOT agencies to achieve environmental justice (EJ) as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of their programs, policies, and activities on minority populations and low-income populations in the United States. The DOT Order requires DOT agencies to address compliance with the Executive Order and the DOT Order in all

rulemaking activities. In addition, both Agencies have issued additional documents relating to administration of the Executive Order and the DOT Order. On June 14, 2012, the FHWA issued an update to its EJ order, FHWA Order 6640.23A, ''FHWA Actions to Address Environmental Justice in Minority Populations and Low Income Populations'' (available online at *www.fhwa.dot.gov/legsregs/directives/orders/664023a.htm*). FTA also issued an update to its EJ policy, ''FTA Policy Guidance for Federal Transit Recipients'', 77 FR 42077, July 17, 2012 (available online at *www.fta.dot.gov/legislation_law/12349_14740.html*).

The Agencies have evaluated the CE under the Executive Order, the DOT Order, the FHWA Order, and the FTA Circular. The Agencies have determined that the designation of the new CE for emergency actions through this rulemaking will not cause disproportionately high and adverse effects on minority or low income populations. The rule simply adds a provision to the Agencies' NEPA procedures under which they may decide in the future that a project or program does not require the preparation of an EA or EIS. The rule itself has no potential for effects until it is applied to a proposed action requiring approval by the FHWA or FTA.

At the time the Agencies apply the CE established by this rulemaking, the Agencies have an independent obligation to conduct an evaluation of the proposed action under the applicable EJ orders and guidance. The adoption of this rule does not affect the scope or outcome of that EJ evaluation. Nor does the new rule affect the ability of affected populations to raise any concerns about potential EJ effects at the time the Agencies consider applying the new CE. Indeed, outreach to ensure the effective involvement of minority and low income populations in the environmental review process is a core aspect of the EJ orders and guidance. For these reasons, the Agencies also have determined no further EJ analysis is needed and no mitigation is required in connection with the designation of the CE for emergency actions.

Executive Order 13045 (Protection of Children)

The Agencies have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The Agencies certify that this action would not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

The Agencies do not anticipate that this action would affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

Agencies are required to adopt implementing procedures for NEPA that establish specific criteria for, and identification of, three classes of actions: Those that normally require preparation of an EIS; those that normally require preparation of an EA; and those that are categorically excluded from further NEPA review (40 CFR 1507.3(b)). The Council on Environmental Quality (CEQ) regulations do not direct agencies to prepare a NEPA analysis or document before establishing Agency procedures (such as this regulation) that supplement the CEQ regulations for implementing NEPA. The CEs are one part of those agency procedures, and therefore establishing CEs does not require preparation of a NEPA analysis or document. Agency NEPA procedures are generally procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. The requirements for establishing agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3. The determination that establishing CEs does not require NEPA analysis and documentation was upheld in *Heartwood, Inc.* v. *U.S. Forest Service,* 73 F. Supp. 2d 962, 972–73 (S.D. Ill. 1999), *aff'd,* 230 F.3d 947, 954–55 (7th Cir. 2000).

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

23 CFR Part 771

Environmental protection, Grant programs—transportation, Highways and roads, Historic preservation, Public lands, Recreation areas, Reporting and recordkeeping requirements.

49 CFR Part 622

Environmental impact statements, Grant programs—transportation, Public transit, Recreation areas, Reporting and record keeping requirements.

In consideration of the foregoing, the FHWA and FTA amend 23 CFR part 771 and 49 CFR part 622 as follows:

Title 23

PART 771—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES.

■ 1. The authority citation for part 771 is revised to read as follows:

Authority: 42 U.S.C. 4321 *et seq.;* 23 U.S.C. 106, 109, 128, 138, 139, 315, 325, 326, and 327; 49 U.S.C. 303; 40 CFR Parts 1500–1508; 49 CFR 1.81, 1.85; Pub. L. 109–59, 119 Stat. 1144, sections 6002 and 6010; Pub. L. 112–141, 126 Stat. 405, section 1315.

■ 2. Amend § 771.117 by revising paragraph (c)(9) to read as follows:

§ 771.117 FHWA categorical exclusions.

* * * * *

(c) * * *

(9) The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121):

(i) Emergency repairs under 23 U.S.C. 125; and

(ii) The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action:

(A) Occurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and

(B) Is commenced within a 2-year period beginning on the date of the declaration.

* * * * *

■ 3. Amend § 771.118 by adding paragraph (c)(11) to read as follows:

§ 771.118 FTA categorical exclusions.

* * * * *

(c) * * *

(11) The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121):

(i) Emergency repairs under 49 U.S.C. 5324; and

(ii) The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action:

(A) Occurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and

(B) Is commenced within a 2-year period beginning on the date of the declaration.

* * * * *

Title 49

PART 622—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

■ 4. The authority citation for subpart A is revised to read as follows:

Authority: 42 U.S.C. 4321 et seq.; 49 U.S.C. 303; 23 U.S.C. 139 and 326; Pub. L. 109–59, 119 Stat. 1144, sections 6002 and 6010; 40 CFR parts 1500–1508; 49 CFR 1.81, 1.85; and Pub. L. 112–141, 126 Stat. 405, section 1315.

Issued on: February 8, 2013.

Victor M. Mendez,

Federal Highway Administrator.

Peter Rogoff,

Federal Transit Administrator.

[FR Doc. 2013–03494 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–22–P

Proposed Rules

Federal Register
Vol. 78, No. 33
Tuesday, February 19, 2013

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

RIN 3064–AE00

Deposit Insurance Regulations; Definition of Insured Deposit

AGENCY: Federal Deposit Insurance Corporation (FDIC).

SUMMARY: The FDIC is proposing to amend its deposit insurance regulations, with respect to deposits payable in branches of United States insured depository institutions (''United States bank'' or ''bank'') outside of the United States. The proposed rule would clarify that deposits in these foreign branches of United States banks are not FDIC-insured deposits. This would be the case whether or not they are dually payable both at the branch outside the United States and at an office within the United States. As discussed further below, a recent proposal by the United Kingdom's Financial Services Authority (''U.K. FSA'') makes it very likely that large United States banks will be changing their United Kingdom foreign branch deposit agreements to make them payable both in the United Kingdom and the United States. This action has the potential to increase significantly the exposure of the Deposit Insurance Fund (''DIF'') and operational complexities were such deposits to be treated as insured. The purpose of this proposed rule is to preserve confidence in the FDIC deposit insurance system, ensure that the FDIC can effectively carry out its critical deposit insurance functions, and protect the DIF against the uncertain liability that it would otherwise face as a global deposit insurer. Should a United States bank make its foreign deposits dually payable, those deposits would be considered ''deposit liabilities'' under the Federal Deposit Insurance Act's (''FDI Act'') depositor preference regime, and would therefore be on an equal footing with domestic deposits in the event of the bank's liquidation.

DATES: Written comments on the proposed rule must be received by the FDIC not later than April 22, 2013.

ADDRESSES: You may submit comments by any of the following methods:

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal.* Follow instructions for submitting comments on the Agency Web site.
- *Email: Comments@FDIC.gov.* Include ''RIN 3064–AE00'' in the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m. (EDT).
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Public Inspection:* All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal* including any personal information provided. Paper copies of public comments may be ordered from the Public Information Center by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT: Matthew Green, Associate Director, Division of Insurance and Research, (202) 898–3670; F. Angus Tarpley III, Supervisory Counsel, Legal Division, (202) 898–6646; Catherine Ribnick, Counsel, Legal Division, (202) 898–6803

SUPPLEMENTARY INFORMATION:

I. Introduction

Congress created the FDIC in 1933 to end the banking crisis experienced during the Great Depression, to restore public confidence in the banking system, and to safeguard bank deposits through deposit insurance. Deposit insurance promotes sound, effective, and uninterrupted operation of the banking system by protecting the safety and liquidity of covered bank deposits. The FDIC pays out deposit insurance from the DIF, which is funded by assessments on insured depository institutions. In addition, the FDIC can access a line of credit from the United States Treasury if necessary for deposit insurance purposes. In the most recent financial crisis, the FDIC's deposit insurance guarantee, with its backing by the full faith and credit of the United States Government, contributed significantly to financial stability in an otherwise unstable financial environment. In the FDIC's history, no depositor has ever lost a penny of an insured deposit.

The FDI Act, 12 U.S.C. 1811, *et seq.,* mandates the payment of deposit insurance ''as soon as possible'' to reduce the economic disruptions caused by bank failures and to preserve stability in the financial markets of the United States. *See* FDI Act section 11(f), 12 U.S.C. 1821(f). The FDIC generally pays out deposit insurance on the next business day after a bank failure, and insured depositors often have uninterrupted access to their insured deposits through ATMs and other means. The prompt payment of deposit insurance preserves confidence in the deposit insurance system and promotes financial stability. Prompt payment depends on a number of key factors, including the FDIC's having immediate access to the deposit records of the failed bank and clarity about the application of laws and practices that could affect deposits in a particular location.

To the extent a failed bank's depositors are uninsured, these depositors share in the proceeds from the liquidation of the assets of the failed bank, as conducted by the FDIC as receiver. The FDI Act contains a priority framework, known as ''national depositor preference,'' which governs the distribution of bank receivership proceeds to claimants, other than secured creditors whose claims are satisfied to the extent of their security. Under this regime, administrative expenses of the receiver are reimbursed first. Deposit liabilities (which include both home-country (uninsured) deposits and the claim of the FDIC standing in the shoes of insured depositors as subrogee) are reimbursed next, followed in order by general or senior liabilities; subordinated liabilities; and obligations to shareholders. FDI Act section 11(d)(11), 12 U.S.C. 1821(d)(11).

A. Treatment of Deposits in Foreign Branches of United States Banks

Funds deposited into foreign branches of United States banks are not ''deposits,'' as defined under the FDI Act, unless those banks make the deposits payable at an office of the bank

in the United States using express contractual terms to that effect. FDI Act section 3(*l*)(5)(A), 12 U.S.C. 1813(*l*)(5)(A). United States banks currently operate through branches in dozens of countries. Foreign branch deposits have doubled since 2001 to total approximately $1 trillion today. A significant percentage of these branch deposits are located in the United Kingdom. United States banks often operate foreign branches to provide banking, foreign currency, and payment services to multinational corporations. In many cases these branches do not engage in retail deposit or other retail banking services; their typical depositors are large businesses that choose to bank in a foreign branch of a United States bank to benefit from the advantages of a large bank's multi-country branch network, which allows the transfer of funds to and from branch offices located in different countries and in different time zones pursuant to deposit agreements governed by non-United States law.

Currently, the overwhelming majority of the deposits in these foreign branches of United States banks are payable only outside the United States. This may in part be because, in the past, making deposits in foreign branches dually payable has been costly for two reasons. First, it increased a bank's deposit insurance assessment base (which, in the past, excluded deposits solely payable outside the United States) and, thus, its deposit insurance assessment. Second, the deposits became subject to the Federal Reserve's Regulation D, 12 CFR part 204. Recent events have reduced or eliminated the cost of making these deposits dually payable, however. First, in section 331(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Congress changed the deposit insurance assessment base so that it now includes all liabilities; converting a deposit in a foreign branch to dual payability no longer increases a bank's assessment base or deposit insurance assessment. Second, the Federal Reserve now pays interest on reserves and allows more flexibility with respect to the reserves it requires. We also understand that United States banks may have refrained from making deposits in foreign branches dually payable out of concern that doing so could cause them to lose the protection from sovereign risk accorded them under section 25(c) of the Federal Reserve Act, 12 U.S.C. 633.[1] Nothing in this proposed rule is intended to preclude a United States bank from protecting itself against sovereign risk by excluding from its deposit agreements with foreign branch depositors liability for sovereign risk.

Because these deposits have not been deposits for purposes of the FDI Act, depositors in foreign branches of United States banks have not received FDIC insurance. They are also not considered depositors for purposes of the national depositor preference provisions of the FDI Act and thus, if the bank were to fail, would share in the distribution of their bank's liquidated assets only as general creditors after the claims of United States (uninsured) depositors and the FDIC as subrogee of insured depositors had been satisfied. As discussed further below, this treatment of deposits payable only in overseas branches under the FDI Act's priority regime reflects important policy considerations.

B. The Consultation Paper of the United Kingdom's Financial Services Authority

In September 2012, the U.K. FSA published a Consultation Paper addressing the implications of national depositor preference regimes in countries outside the European Economic Area (''EEA''). The Consultation Paper proposes to prohibit banks from non-EEA countries, including United States banks, from operating deposit-taking branches in the United Kingdom unless United Kingdom depositors in such branches would be on an equal footing in the national depositor preference regime with home-country (uninsured) depositors in a resolution of the bank if it were to fail. One of the U.K. FSA's proposed remedies would require United States banks to change their United Kingdom deposit agreements so that the deposits are payable both in the United Kingdom and in the United States.

As outlined above, the effective result of such a change proposed by the U.K. FSA to the existing deposit agreements would be that the bank's deposits in the United Kingdom branch would be treated on a par with deposits in a branch in the United States and thus would be given depositor preference priority in a distribution of assets. However, the FDI Act and FDIC regulations do not specifically deal with the availability of deposit insurance for deposits in foreign branches that have been made dually payable, leaving unaddressed the question whether United Kingdom branch deposits would be eligible for FDIC deposit insurance as well.

Any potential for a significant expansion of FDIC deposit insurance coverage outside the United States, with the concomitant potential impact on United States taxpayers, must be addressed expeditiously. Absent decisive action, the FDIC could find itself subject to liability to depositors throughout the world.

The U.K. FSA currently has proposed that the rules governing deposit-taking by foreign banks in the United Kingdom will become final in early 2013, with implementation to take place two years later. Shortly after the rule's becoming final, however, United States banks with branches in the United Kingdom will be required to disclose to their United Kingdom depositors information regarding how the FDI Act's national depositor preference regime operates. Specifically, the required disclosure must indicate that, upon failure of the bank, claims for recovery of the bank's United Kingdom deposits would be subordinated to claims for recovery of the bank's United States deposits and, among other disclosures, that United Kingdom depositors would suffer losses before home-country depositors suffer any losses. The Consultation Paper makes clear that a disclosure that merely indicates that United Kingdom depositors would be in a weaker position vis-à-vis home-country (uninsured) depositors in the event of insolvency would not constitute sufficient disclosure.

The Consultation Paper also specifies the required methodology of disclosure, including disclosure in deposit contracts with new customers and required revisions to deposit contracts with existing customers; among other things, the revisions to existing deposit contracts must explain to customers the specific purpose of the revisions. The firms are directed to make no distinction between retail and corporate customers. Furthermore, the disclosures are to be made on any Web site that offers deposit-taking services.

United States banks have advised the FDIC that they are likely to begin the process of sending out these disclosures shortly and, further, that they would likely make their deposits payable both in the United Kingdom and the United States at the same time or shortly thereafter to minimize the likelihood of depositor run-off and mitigate any potential damage to their customer relationships. Such changes are of particular concern to the FDIC. Absent timely direction from the FDIC, there

[1] This section provides that a member bank is not required to repay a deposit in a foreign branch if it cannot do so because of ''war, insurrection, or civil strife'' or actions taken by the foreign government, unless the member bank has explicitly agreed in writing to repay foreign branch deposits in such circumstances.

could be significant impact on the FDIC's deposit insurance program.

''Dual payability'' should not be confused with mere access to funds in a country other than one's home country. Thus, for example, a United States-based traveler may have access to funds in a United States bank account via an ATM transaction overseas without making that account dually payable, and the reverse is true for travelers with deposits in foreign branches accessing their funds at an ATM in the United States. In each case such access is a mere service the bank provides to its customer as distinguished from a right to payment in a liquidation.

In light of these recent international developments, the FDIC is issuing this notice of proposed rulemaking, with request for comments, to address the applicability of deposit insurance to deposits in foreign branches of United States banks.

II. Background

A. U.K. FSA Consultation Paper

As noted above, in September 2012, the U.K. FSA issued a Consultation Paper addressing the implications of national depositor preference regimes of countries outside the EEA. The U.K. FSA has proposed to prohibit a non-EEA bank from operating a deposit-taking branch in the United Kingdom unless United Kingdom depositors are on an equal footing in the national depositor preference regime with home-country (uninsured) depositors in a resolution scenario. The U.K. FSA has directed that banks from non-EEA countries that operate national depositor preference regimes take steps to ensure such equal treatment, and has identified three potential solutions (while not precluding the possibility that there could be other solutions that would satisfy the U.K. FSA's concerns):

a. The first alternative offered by the U.K. FSA is subsidiarization. Under this alternative, non-EEA banks whose home countries operate national depositor preference regimes would accept deposits in the United Kingdom using a United Kingdom-incorporated subsidiary rather than a branch. If firms from a non-EEA country that operates a national depositor preference regime place their United Kingdom deposits in a United Kingdom-incorporated subsidiary, the United Kingdom depositors would not be subordinated to home-country depositors in the event the firms fails. When a United Kingdom-incorporated subsidiary fails, all of its depositors, including United Kingdom depositors are subject to United Kingdom resolution and/or insolvency laws.

b. The second alternative offered by the U.K. FSA is to give banks the option of segregating, or ring-fencing, assets in the United Kingdom through a trust arrangement. The trust arrangement would specify that United Kingdom branch depositors are the beneficiaries of the trust, and the banks would have to provide a legal opinion explaining how the measure eliminates the subordination of United Kingdom branch depositors, and that any legal challenge would not divert the ring-fenced assets from their intended use.

c. A third option for those countries like the United States whose statutes permit, would be ''dual payability''—making deposits payable in both the home country and the United Kingdom. Under United States law, dual payability would result in those deposits occupying the same distribution priority level as home-country (uninsured) deposits under the national depositor preference regime.

B. National Depositor Preference

In 1993, Congress amended the FDI Act to include a depositor preference provision in the federal failed-bank resolution framework. Omnibus Budget Reconciliation Act of 1993, Public Law 103–66. As noted above, in general, ''depositor preference'' refers to a distribution model in which the claims of depositors have priority over (*i.e.,* are satisfied before) the claims of general unsecured creditors.

Shortly after Congress added the national depositor preference provisions, FDIC legal staff was asked to address the impact of these new preference provisions on deposit obligations payable *solely* at a foreign branch or branches of a United States bank. *See* FDIC Advisory Opinion 94–1, Letter of Acting General Counsel Douglas H. Jones (Feb. 28, 1994). As described in this Advisory Opinion, national depositor preference made general unsecured creditor claims subordinate to any ''deposit liability'' of the institution. Since all deposit liabilities would be preferred over the claims of other creditors, FDIC staff was expressly asked whether the term ''deposit liability'' would include, or exclude, those obligations payable solely at a foreign branch of a United States bank.

The Advisory Opinion explored the meaning of the term ''deposit liability'' used in other provisions of United States law. The Advisory Opinion specifically noted that the FDI Act definition of the term ''deposit'' expressly excludes any obligation of a bank that is payable only at an office of such bank located outside of the United States. *See* FDI Act section 3(*l*), 12 U.S.C. 1813(*l*), and discussion below. The Advisory Opinion concluded that, to qualify as a deposit liability under the national depositor preference amendments to the FDI Act, the controlling deposit agreement would have to specify in express terms that the obligation is payable in the United States. Only by way of these express contractual terms would certain obligations of a foreign branch be considered deposits under the new depositor preference regime and be preferred over the claim of any general, unsecured creditor in a liquidation of a multinational bank. Obligations payable solely at a foreign branch of a United States chartered bank were deemed to be excluded from the term ''deposit liability'' for purposes of national depositor preference.

III. Statutory Framework

A. Definition of ''Deposit''

The term ''deposit'' is defined in FDI Act section 3(*l*), 12 U.S.C. 1813(*l*). As early as the Banking Act of 1933, Congress made a distinction between domestic and foreign deposits, and the current statutory definition of ''deposit'' makes clear that foreign branch deposits are not deposits for the purposes of the FDI Act except under certain prescribed circumstances. In most relevant part, the law specifies that the following shall not be a deposit for any of the purposes of the FDI Act or be included as part of the total deposits or of an insured deposit: any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State, unless such obligation would be a deposit if it were carried on the books and records of the depository institution, and would be payable at, an office located in any State; and the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State. FDI Act section 3(*l*)(5), 12 U.S.C. 1813(*l*)(5).

Therefore, deposit obligations of a foreign branch of a United States bank that would otherwise fall within one of the categories of deposits created by section 3(*l*), or which the FDIC Board would otherwise prescribe as a deposit by regulation, are deemed not to be deposits unless they (1) would be deposits if carried on the books and records of the insured depository institution in the United States and (2)

are expressly payable in the United States.

Historically, the great majority of deposit agreements governing relationships between United States banks and their foreign branch depositors have not expressly provided for payment of foreign branch deposits at an office in the United States. Thus, these foreign branch deposits have not been considered ''deposits'' for any purpose under the FDI Act, including depositor preference and deposit insurance.

B. Definition of ''Insured Deposit''

The FDI Act defines ''insured deposit'' as the net amount due any depositor for deposits in an insured depository institutions as determined under section 11(a). FDI Act section 3(m)(1), 12 U.S.C. 1813(m)(1). FDI Act section 11(a), 12 U.S.C. 1821(a), cross-referenced in the definition of ''Insured Deposit,'' directs the FDIC to ''insure the deposits of all insured depository institutions as provided in this Act.'' Section 11(a) provides only limited direction affecting certain categories of deposits. It does not expressly address foreign deposits.

The FDIC issues rules and regulations necessary to carry out the statutory mandates of the FDI Act and other laws that the FDIC is charged with administering or enforcing. In instances such as this one where a statute is silent or general on issues critical to the FDIC's fundamental responsibilities, the FDIC has used its rulemaking authority to effectuate its statutory responsibilities.

Providing deposit insurance to insured depository institutions and maintaining public confidence in the banking system through that deposit insurance in the event of a bank's insolvency are two central functions of the FDIC. In order to permit the FDIC to carry out these functions successfully, Congress has authorized the FDIC to undertake rulemaking to implement the FDI Act effectively, particularly with respect to its deposit insurance functions. The FDI Act gives the FDIC explicit rulemaking and definitional authorities to ensure that it can adapt to changed circumstances as necessary to carry out its important deposit insurance responsibilities.

The FDI Act contains several provisions granting the FDIC broad authority to issue regulations to carry out its core functions and responsibilities, including the duty ''to insure the deposits of all insured depository institutions.'' Notably, FDI Act section 11(d)(4)(B)(iv), 12 U.S.C. 1821(d)(4)(B)(iv), authorizes the FDIC (in its corporate capacity) to promulgate ''such regulations as may be necessary to assure that the requirements of this section [FDI Act section 11, 12 U.S.C. 1821, which addresses, in FDI Act section 11(f), 12 U.S.C. 1821(f), the payment of deposit insurance] can be implemented with respect to each insured depository institution in the event of its insolvency.''

Other grants of FDIC rulemaking authority can be found in FDI Act section 9(a)(Tenth), 12 U.S.C. 1819(a)(Tenth) (authorizing the FDIC Board to prescribe ''such rules and regulations *as it may deem necessary* to carry out the provisions of this chapter * * *''), and FDI Act section 10(g), 12 U.S.C. 1820(g) (authority to ''prescribe regulations'' and ''*to define terms* as necessary to carry out'' the FDI Act) (emphasis added).

IV. The Proposed Rule

A. The Proposed Rule

The proposed rule would address several key concerns: (1) Maintaining public confidence in federal deposit insurance; (2) protecting the DIF; (3) ensuring that, in the event of an insolvency, the FDIC is in a position to administer the resulting receivership effectively and fairly; and (4) enhancing international cooperation.

The FDIC is proposing to amend its deposit insurance regulations, 12 CFR part 330, section 330.3(e), relating to deposits payable outside of the United States. The proposed rule would explicitly state that an obligation of an insured depository institution that is carried on the books and records of a foreign branch shall not be an insured deposit for the purpose of the deposit insurance regulations, even if the obligation is payable both at an office within the United States and outside the United States. This would ensure that the FDIC will be able to carry out its critical mission in the United States, and the DIF will be protected from potential global liability.

The proposed rule would not affect the ability of a bank to make a foreign deposit ''dually payable'' in the United States and abroad. Should a bank do so, its foreign branch deposits would be treated as deposit liabilities under the FDI Act's depositor preference regime in the same way as, and on an equal footing with, domestic deposits. This means that dually payable deposits in foreign branches of United States banks and domestic deposits in the bank would both receive preferred status over general creditors should the bank fail and be placed in receivership, although the deposits in the foreign branches would not receive FDIC deposit insurance.

The proposed rule is not intended to affect the operation of Overseas Military Banking Facilities operated under Department of Defense regulations, 32 CFR parts 230 and 231, or similar facilities authorized under Federal statute. Such facilities are established under statutory authority, separate from State or Federal laws that govern the broader banking industry, for the benefit of specific United States customers. These customers include active duty and reserve United States military personnel, Department of Defense United States civilian employees, and United States employees of other United States government departments stationed abroad. Consistent with this approach, a United States military banking facility located in a foreign country has been treated as a ''domestic'' office for purposes of the Report on Condition and Income. Accordingly, deposits placed at such facilities overseas have and would continue to receive FDIC deposit insurance if they meet the requirements of FDI Act section 3(*l*)(5)(A), 12 U.S.C. 1813(*l*)(5)(A).[2]

B. Objective of the Proposed Rule

The goal of the proposed rule is to ensure that the FDIC can carry out its mandate to provide deposit insurance by protecting the DIF. Absent this rulemaking, the DIF faces potential liability that could be global in scope, a risk that could extend to the United States which backs the DIF with full faith and credit. This threat is aggravated by the higher deposit insurance limits afforded by the DIF as contrasted with the deposit insurance systems of many other countries.

Timely payment of deposit insurance in the event of a bank failure is critical to promoting depositor confidence in the United States deposit insurance system. That system is designed to function in the context of the domestic legal system and functions very effectively in that context. Insuring deposits in foreign jurisdictions raises a series of challenges that threatens the ability to make timely payment. These challenges include access to books and records and foreign law and practice. Any resulting delay would undermine this confidence.

With respect to the FDIC's insurance determination and prompt payment of deposit insurance, there can be no assurance that the FDIC will have access

[2] *See* FDIC Advisory Opinion 96–6, Letter of Assistant General Counsel Alan J. Kaplan (Mar. 5, 1996).

to either the failed branch's premises or its deposit records. Rather, such access could be subject to the local law of the foreign jurisdiction and, possibly, to the discretion of the foreign jurisdiction's regulatory authorities. For example, in an extreme case, FDIC representatives may be unable to obtain visas or other travel permits even to enter the foreign jurisdiction. Even if full access to the foreign branch's premises and deposit records were provided to the FDIC, such access may be delayed for an indeterminate period of time, and any significant delay would be antithetical to one of the primary objectives of providing deposit insurance to depositors: the FDIC's payment of deposit insurance ''as soon as possible'' in accordance with FDI Act section 11(f)(1), 12 U.S.C. 1821(f)(1). Consequently, significant operational issues due to external factors may impede the FDIC's prompt payment of deposit insurance (usually the next business day) to depositors of foreign branches of failed United States insured depository institutions. Indeed, in the context of a significant financial crisis in a number of countries, the problems presented could be particularly acute.

C. Other Options

The FDIC has explored alternative options for addressing the issues the U.K. FSA Consultation Paper has triggered. As noted above, the FDIC published an advisory opinion in 1994 that found that foreign deposits payable solely abroad were not deposits under the FDI Act for purposes of national depositor preference. The FDIC has considered whether to revisit the conclusions reached in this advisory opinion. The FDIC has also reviewed the status of deposits in foreign branches in light of the history of the FDI Act. In addition, the FDIC has received input from a number of United States banks affected by the U.K. FSA's actions, as well as the U.K. FSA itself. The FDIC seeks comment from all interested parties on all aspects of the proposed rule, including whether other alternatives are available that would accomplish the goals of the rule (protecting the DIF from exposure to expanded international deposit insurance liability arising from dually payable deposits and associated operational complexities) in a more effective manner.

In particular, the FDIC seeks comment on whether it should consider an alternative approach to the proposed rule that would not entirely preclude deposit insurance for dually payable deposits, but only if enumerated conditions designed to protect the DIF and facilitate deposit insurance determinations were satisfied. For example, United States banks wishing to obtain deposit insurance for their dually payable foreign branch deposits could be required to transmit assets to or pledge collateral in favor of the FDIC in an amount equal to 100 percent of the deposit insurance for which the deposits in the foreign branch would be eligible. These assets or collateral would be transmitted to or pledged in favor of the FDIC, not to or in favor of the private depositor, for the purpose of eliminating potential losses to the DIF stemming from these foreign deposits in the event of a bank failure. The rule could specify what types of assets or collateral would be acceptable, such as United States Treasury securities. FDIC regulations dealing with collateral to be pledged by foreign banks for deposits in a United States branch, 12 CFR 347.209(d), suggest other types of assets or collateral that may be appropriate. The regulation could also designate the source of the funding for the assets to be transmitted or for the collateral to be pledged from domestic assets or those of the foreign branch, and the regulation could specify how often the sufficiency of the collateral or assets would be reviewed, *e.g.,* daily, monthly. Alternatively, banks could post a surety bond in the same amount to ensure that these deposits receive deposit insurance. Such a rule could also address operational considerations by establishing requirements for the deposit agreements that provide for dually payable foreign deposits. These agreements could, for example, be required to contain a choice of law provision designating United States law as governing any disputes arising under the agreement. The agreements would have to be maintained at the principal domestic office of the United States bank, and they would have to be available in English. Finally, the rule could reserve to the FDIC the discretion to prescribe additional requirements deemed to be necessary to protect the DIF from expanded liability. Such additional requirements could likely include recordkeeping directions. The FDIC looks forward to receiving comments on any aspect of this alternative proposal and welcomes comment on other alternative enumerated conditions that would allow the FDIC to continue providing deposit insurance to dually payable deposits while ensuring no possibility of loss to the DIF.

V. Request for Comments

The FDIC invites comments on all aspects of the proposed rule. Written comments must be received by the FDIC no later than April 22, 2013. In particular, the FDIC seeks comments with respect to the following questions:

A. Insured Depository Institutions

1. Please describe the impact the proposed rule is expected to have on your business model, operations and customers, including:

a. The number and location of foreign branches in which the deposits have been made ''dually payable'' by contract between you and your depositors;

b. The terms of the contract pursuant to which the deposits in your foreign branches have been made ''dually payable''; and

c. Any representations in your foreign branches, such as the logo of the FDIC, indicating that deposits are insured.

B. Customers

1. Please describe the impact the proposed rule is expected to have.

C. Special Considerations

1. The proposed rule is not intended to affect the provision of deposit insurance with respect to deposits at Overseas Military Banking Facilities located on Department of Defense installations or similar facilities authorized under Federal statute. Please comment as to whether the proposed rule could nonetheless negatively affect the administration of such facilities.

2. Please describe any other similar programs not specifically addressed that may be negatively affected by this proposed rule.

D. General

1. Please describe any other consequences of the proposed rule of which the FDIC should be made aware.

VI. Regulatory Analysis and Procedure

A. Paperwork Reduction Act

The proposed rule clarifies the applicability of deposit insurance to deposits in foreign branches of United States banks. It does not involve any new collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). Consequently, no information has been submitted to the Office of Management and Budget for review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601, *et seq.,* requires an agency publishing a notice of proposed rulemaking to prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the proposed rule on small entities. 5 U.S.C. 603(a).

The RFA provides that an agency is not required to prepare and publish a regulatory flexibility analysis if the agency certifies that the proposed rule will not have a significant impact on a substantial number of small entities. 5 U.S.C. 605(b).

Pursuant to section 605(b) of the RFA, the FDIC certifies that the proposed rule will not have a significant impact on a substantial number of small entities. The proposed rule will specify that deposit insurance is inapplicable to deposits in foreign branches of U.S. banks and, as such, imposes no burdens on insured depository institutions of any size. Therefore, the FDIC is not aware of any banks that are considered small entities for the purposes of the RFA and that would be affected by this proposed rule.

C. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471) requires Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the proposed rule in a simple and straightforward manner but nevertheless invites comments on whether the proposal is clearly stated and effectively organized, and how the FDIC might make the proposed text easier to understand.

List of Subjects in 12 CFR Part 330

Bank deposit insurance, Banks, Banking, Reporting and recordkeeping requirements, Savings and Loan associations, Trusts and trustees.

For the reasons stated above, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend part 330 of title 12 of the Code of Federal Regulations as follows:

PART 330—DEPOSIT INSURANCE COVERAGE

■ The authority citation for part 330 is revised to read as follows:

Authority: 12 U.S.C. 1813(*l*), 1813(m), 1817(i), 1818(q), 1819(a)(Tenth), 1820(f), 1820(g), 1821(a), 1821(d), 1822(c)

■ 1. In § 330.1, revise paragraph (i) to read as follows:

§ 330.1 Definitions.

* * * * *

(i) *Insured deposit* has the same meaning as that provided under section 3(m)(1) of the Act (12 U.S.C. 1813(m)(1)) and this part.

* * * * *

■ 2. In § 330.3, revise paragraph (e) to read as follows:

§ 330.3 General principles.

* * * * *

(e) *Deposits payable outside of the United States and certain other locations.* (1) Any obligation of an insured depository institution which is payable solely at an office of such institution located outside the States of the United States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, is not a deposit for the purposes of this part.

(2) Except as provided in paragraph (e)(3) of this section, any obligation of an insured depository institution which is carried on the books and records of an office of such institution located outside the States of the United States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, shall not be an insured deposit for purposes of this part, notwithstanding that it may also be payable at an office of such institution located within a State, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, or any other provision of this part.

(3) Rule of Construction: For purposes of this section, Overseas Military Banking Facilities operated under Department of Defense regulations, 32 CFR parts 230 and 231, are not considered to be offices located outside the States of the United States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

* * * * *

Dated at Washington, DC, this 12th day of February, 2013.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–03578 Filed 2–15–13; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–0148; Notice No. 25–13–01–SC]

Special Conditions: Embraer S.A., Model EMB–550 Airplane; Landing Pitchover Condition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Embraer S.A. Model EMB–550 airplane. This airplane will have a novel or unusual design feature(s) associated with landing loads due to the automatic braking system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send your comments on or before April 5, 2013.

ADDRESSES: Send comments identified by docket number FAA–2013–0148 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC, 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search

function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Todd Martin, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98057–3356; telephone 425–227–1178; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On May 14, 2009, Embraer S.A. applied for a type certificate for their new Model EMB–550 airplane. The Model EMB–550 airplane is the first of a new family of jet airplanes designed for corporate flight, fractional, charter, and private owner operations. The aircraft has a conventional configuration with low wing and T-tail empennage. The primary structure is metal with composite empennage and control surfaces. The Model EMB–550 airplane is designed for 8 passengers, with a maximum of 12 passengers. It is equipped with two Honeywell HTF7500–E medium bypass ratio turbofan engines mounted on aft fuselage pylons. Each engine produces approximately 6,540 pounds of thrust for normal takeoff. The primary flight controls consist of hydraulically powered fly-by-wire elevators, aileron and rudder, controlled by the pilot or copilot sidestick.

The Model EMB–550 airplane is equipped with an automatic braking system. This feature is a pilot-selectable function that allows earlier braking at landing without pilot pedal input. When the autobrake system is armed before landing, it automatically commands a pre-defined braking action after the main wheels touch down. This might cause a high nose gear sink rate, and potentially higher gear and airframe loads than would occur with a traditional braking system. Therefore, the FAA has determined special conditions are necessary.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Embraer S.A. must show that the Model EMB–550 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–127 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model EMB–550 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Embraer S.A. Model EMB–550 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Embraer S.A. Model EMB–550 airplane is equipped with an automatic braking system, which is a pilot-selectable function that allows earlier maximum braking at landing without pilot pedal input. When the autobrake system is armed before landing, it automatically commands maximum braking at main wheels touchdown. This will cause a high nose gear sink rate, and potentially higher gear and airframe loads than would occur with a traditional braking system.

Discussion

These special conditions define a landing pitchover condition that accounts for the effects of the automatic braking system. The special conditions define the airplane configuration, speeds, and other parameters necessary to develop airframe and nose gear loads for this condition. The special conditions require that the airplane be designed to support the resulting limit and ultimate loads as defined in § 25.305.

Applicability

As discussed above, these special conditions are applicable to the Embraer S.A. Model EMB–550 airplane. Should Embraer S.A. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the FAA proposes the following special conditions as part of the type certification basis for Embraer S.A. Model EMB–550 airplanes.

Landing Pitchover Condition

A landing pitchover condition must be addressed that takes into account the effect of the autobrake system. The airplane is assumed to be at the design maximum landing weight, or at the maximum weight allowed with the autobrake system on. The airplane is assumed to land in a tail-down attitude and at the speeds defined in § 25.481. Following main gear contact, the airplane is assumed to rotate about the main gear wheels at the highest pitch rate allowed by the autobrake system. This is considered a limit load condition from which ultimate loads

must also be determined. Loads must be determined for critical fuel and payload distributions and centers of gravity. Nose gear loads, as well as airframe loads, must be determined. The airplane must support these loads as described in § 25.305.

Issued in Renton, Washington, on February 12, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–03679 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1, 16, 106, 110, 114, 117, 120, 123, 129, 179, and 211

[Docket No. FDA–2011–N–0920]

RIN 0910–AG36

Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food; Extension of Comment Period for Information Collection Provisions

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period for information collection provisions.

SUMMARY: The Food and Drug Administration (FDA or ''we'') is extending the comment period for the information collection related to the proposed rule on ''Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food'' that appeared in the **Federal Register** of January 16, 2013. In the preamble to the proposed rule, FDA requested comments on the information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. We are taking this action in response to requests for an extension to allow interested persons additional time to submit comments on the information collection provisions associated with the rule.

DATES: The comment period for the proposed rule published January 16, 2013 (78 FR 3646), is extended. Submit either electronic or written comments by May 16, 2013.

ADDRESSES: To ensure that comments on information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the title ''Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food.''

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Information Management, Food and Drug Administration, 1350 Picard Dr., PI50–400T, Rockville, MD 20850, *Domini.Bean@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 16, 2013 (78 FR 3646), FDA published a proposed rule entitled ''Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food'' with a 120-day comment period on the provisions of the proposed rule and a 30-day comment period on the information collection provisions that are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Comments on the provisions of the rule and on the information collection provisions will inform FDA's rulemaking to modernize the regulation for ''Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food'' and to add requirements for domestic and foreign facilities that are required to register under the Federal Food, Drug, and Cosmetic Act to establish and implement hazard analysis and risk-based preventive controls for human food.

OMB and FDA have received two requests for a 90-day extension of the comment period for the information collection provisions of the proposed rule. The requests conveyed concern that the current 30-day comment period does not allow sufficient time to develop a meaningful or thoughtful response to the information collection provisions submitted to OMB under the Paperwork Reduction Act of 1995.

We have considered the requests and are extending the comment period for the information collection for 90 days, until May 16, 2013. We believe that a 90-day extension allows adequate time for interested persons to submit comments without significantly delaying rulemaking on these important issues. A 90-day extension also will make the comment period for the information collection provisions the same as the comment period for the provisions of the proposed rule.

II. Request for Comments

Interested persons may either submit electronic comments regarding the information collection to *oira_submission@omb.eop.gov* or fax written comments to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285. All comments should be identified with the title ''Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food.''

Dated: February 13, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–03732 Filed 2–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16 and 112

[Docket No. FDA–2011–N–0921]

RIN 0910–AG35

Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption; Extension of Comment Period for Information Collection Provisions

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period for information collection provisions.

SUMMARY: The Food and Drug Administration (FDA or ''we'') is extending the comment period for the information collection provisions of the proposed rule on ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption'' that appeared in the **Federal Register** of January 16, 2013. In the preamble to the proposed rule, FDA requested comments on the information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. We are taking this action in response to requests for an extension to allow interested persons additional time to submit comments on the information collection provisions associated with the rule.

DATES: The comment period for the proposed rule published January 16, 2013 (78 FR 3504), is extended. Submit

either electronic or written comments by May 16, 2013.

ADDRESSES: To ensure that comments on information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the title ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption.''

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Information Management, Food and Drug Administration, 1350 Picard Dr., PI50–400T, Rockville, MD 20850, *Domini.Bean@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 16, 2013 (78 FR 3504), FDA published a proposed rule entitled ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption'' with a 120-day comment period on the provisions of the proposed rule and a 30-day comment period on the information collection provisions that are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Comments on the provisions of the rule and on the information collection provisions will inform FDA's rulemaking to establish science-based minimum standards for the safe growing, harvesting, packing, and holding of produce for human consumption to minimize the risk of serious adverse health consequences or death from consumption of contaminated produce.

We have received a request for a 90-day extension of the comment period for the information collection provisions of the proposed rule. The request conveyed concern that the current 30-day comment period does not allow sufficient time to provide meaningful input on the information collection provisions submitted to OMB under the Paperwork Reduction Act of 1995.

We have considered the request and are extending the comment period for the information collection for 90 days, until May 16, 2013. We believe that a 90-day extension allows adequate time for interested persons to submit comments without significantly delaying rulemaking on these important issues. A 90-day extension also will make the comment period for the information collection provisions the same as the comment period for the provisions of the proposed rule.

II. Request for Comments

Interested persons may either submit electronic comments regarding the information collection to *oira_submission@omb.eop.gov* or fax written comments to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285. All comments should be identified with the title ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption.''

Dated: February 13, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–03778 Filed 2–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 814

[Docket No. FDA–2009–N–0458]

RIN 0910–AG29

Medical Devices; Pediatric Uses of Devices; Requirement for Submission of Information on Pediatric Subpopulations That Suffer From a Disease or Condition That a Device Is Intended To Treat, Diagnose, or Cure

AGENCY: Food and Drug Administration, HHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) published a proposed rule in the **Federal Register** of April 1, 2010, along with a companion direct final rule. The proposed rule proposed to amend the regulations on premarket approval of medical devices to include requirements relating to the submission of information on pediatric subpopulations that suffer from the disease or condition that a device is intended to treat, diagnose, or cure. The Agency received significant adverse comment and withdrew the direct final rule. The Agency is issuing this supplemental notice of proposed rulemaking re-proposing the amendments reflecting comments received.

DATES: Submit either electronic or written comments on the proposed rule by April 22, 2013. Submit comments on information collection issues under the Paperwork Reduction Act of 1995 by March 21, 2013, (see the ''Paperwork Reduction Act of 1995'' section of this document).

ADDRESSES: You may submit comments, identified by Docket No. FDA–2009–N–0458 and/or RIN number 0910–AG29, by any of the following methods, except that comments on information collection issues under the Paperwork Reduction Act of 1995 must be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) (see the ''Paperwork Reduction Act of 1995'' section of this document).

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

- Mail/*Hand delivery/Courier (for paper or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–2009–N–0458 and Regulatory Information Number (RIN) 0910–AG29 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Sheila Brown, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Avenue, Bldg. 66, Rm. 1651, Silver Spring, MD 20993, 301–796–6563.

SUPPLEMENTARY INFORMATION:

I. What is the background of this proposed rule?

The Food and Drug Administration Amendments Act of 2007 (FDAAA) [1] (Pub. L. 110–85) amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act) by among other things, adding section 515A (21 U.S.C. 360e–1) of the FD&C Act. Section 515A(a) of the FD&C Act requires persons who submit certain medical device applications to include, if readily available, a description of any pediatric subpopulations that suffer from the disease or condition that the device is intended to treat, diagnose, or cure, and the number of affected pediatric patients. The information submitted under section 515A(a) of the FD&C Act will be essential to completing the annual report that FDA is required to submit to Congress under section 515A(a)(3), including:

- The number of approved devices for which there is a pediatric subpopulation that suffers from the disease or condition that the device is intended to treat, diagnose, or cure; and
- The review time for each such device application.

On April 1, 2010, FDA had published a proposed rule, along with a companion direct final rule (75 FR 16347), with a 75-day comment period to request input from interested parties (75 FR 16365) as a step towards implementing section 515A(a) of the FD&C Act. A few months later, FDA withdrew the direct final rule because we received significant adverse comment (75 FR 41986, July 20, 2010). One of these comments stated that by revising § 814.2 as proposed, FDA would exceed its statutory authority by changing the purpose of the regulation of medical devices. Furthermore, the comment stated that since FDA already has the framework to evaluate whether a PMA application includes all required content, this proposed amendment is unnecessary. Although FDA disagrees that it does not have the authority to enact such an amendment, the Agency agrees the amendment is unnecessary because the objective of ensuring that PMAs include readily available information concerning pediatric medical devices is subsumed in proposed § 814.20(b)(13). Per 21 CFR 814.42(e)(2), FDA may refuse to file any PMA application that does not contain the elements required by 21 CFR 814.20. Consequently, FDA has concluded that an amendment to 21 CFR 814.2 is not needed in this proposed rule.

[1] Title III of FDAAA, which includes new section 515A, is also known as the Pediatric Medical Device Safety and Improvement Act of 2007.

Another comment challenged FDA's request for information on potential pediatric uses when implementing section 515A(a)(2) of the FD&C Act. The comment stated it is inappropriate to use the term ''potential'' in proposed codified §§ 814.44, 814.100, 814.104, and 814.116 because the statute does not require sponsors to speculate as to possible pediatric uses and possible subpopulations. FDA agrees with the comment and has revised the regulation by removing any mention of potential pediatric uses. The proposed regulation now mirrors the statute more closely and FDA believes this modification will facilitate compliance.

Due to the changes made since the April 1, 2010, proposed rule and in particular, the scope of applications to which this requirement is to apply (see section II), we are taking this action to allow for public comment on the re-drafted proposed rule. In addition to providing FDA's revised proposal for implementing section 515A(a) of the FD&C Act, this document serves to supplement the proposed rule that issued with the companion direct final rule (75 FR 16365, April 1, 2010).

II. How are pediatric patients and pediatric subpopulations defined?

Section 515A(c) of the FD&C Act states that, for the purposes of that section, the term ''pediatric subpopulation'' has the meaning given the term in section 520(m)(6)(E)(ii) of the FD&C Act (21 U.S.C. 360j). Section 520(m)(6)(E)(ii) of the FD&C Act defines the term ''pediatric subpopulation'' to mean one of the following populations:

- Neonates;
- Infants;
- Children; and
- Adolescents.

Section 515A additionally requires that the descriptions of pediatric subpopulations include the number of affected ''pediatric patients.'' Section 515A does not define the term ''pediatric patients.'' The term ''pediatric patients,'' however, is defined for purposes of section 520(m)(6)(E)(i) of the FD&C Act (relating to humanitarian device exemptions for pediatric patients) as patients who are 21 years of age or younger at the time of the diagnosis or treatment. The definition for ''pediatric patients'' in section 520(m)(6)(E)(i) of the FD&C Act is consistent with the definition of ''pediatric subpopulations'' in section 520(m)(6)(E)(ii).

These definitions of pediatric subpopulation and pediatric patient are reflected in FDA's previously issued 2004 guidance on pediatric medical devices which recommended the age range for each of the populations included in the term ''pediatric subpopulation.'' Those age ranges span from birth to 21 years of age (that is, from birth through the 21st year of life, up to but not including the 22d birthday). See Premarket Assessment of Pediatric Medical Devices (May 14, 2004); *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm089740.htm*.

For purposes of the requirements proposed in this document, FDA is proposing to codify a definition of the term ''pediatric patients'' as patients who are 21 years of age or younger (that is, from birth through the 21st year of life, up to but not including the 22d birthday) at the time of the diagnosis or treatment.

III. What applications are subject to this proposed rule?

In accordance with the FD&C Act, the proposed requirements to include, if readily available, a description of any pediatric subpopulations that suffer from the disease or condition that the device is intended to treat, diagnose, or cure, and the number of affected pediatric patients would apply to the following applications when submitted on or after the effective date of the final rule:

- Any request for a humanitarian device exemption (HDE) submitted under section 520(m) of the FD&C Act;
- Any PMA or supplement to a PMA submitted under section 515 of the FD&C Act; and
- Any product development protocol (PDP) submitted under section 515 of the FD&C Act.

FDA concludes that section 515A applies to all submission types listed in the statute—PMA, HDE, PDP and all PMA supplements—not just the subset of PMA supplements that propose a new indication for use, as was proposed in the April 2010 proposed rule. The Agency also wants to clarify that it does not interpret 30-day notices submitted under 21 CFR 814.39(f) to be PMA supplements for purposes of this proposed rule. Section 515(d)(6)(A) of the FD&C Act distinguishes between modifications to manufacturing procedures or methods of manufacture that affect the safety and effectiveness of a device subject to an approved PMA, which require the submission of a written notice, and other changes that affect safety and effectiveness and require the submission of a ''supplemental application.'' Because of this statutory distinction, 30-day notices are not considered PMA supplements for purposes of this proposed rule and,

therefore, are not required to include readily-available pediatric information.

Moreover, an applicant submitting a PMA supplement is not required to resubmit previously submitted information satisfying the pediatric subpopulation requirements for the device, but may include the information by referring to the previous application or submission that contains the information. However, if additional information has become readily available to the applicant since the previous submission, the applicant must submit that information as part of the supplement.

Many premarket approval applications begin with the submission of one or more PMA modules; see ''Premarket Approval Application Modular Review—Guidance for Industry and FDA Staff,'' available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm089764.htm*. Applicants who choose to use the modular approach should submit the information required by section 515A(a) of the FD&C Act in the final PMA module (i.e., the module that includes final clinical data, proposed labeling, and the Summary of Safety and Effectiveness Data).

IV. What does this proposed rule do?

This proposed rule would implement section 515A(a) of the FD&C Act by amending 21 CFR part 814, Premarket Approval of Medical Devices, to include requirements relating to the submission of readily available information on pediatric subpopulations that suffer from the disease or condition that a device is intended to treat, diagnose, or cure.

A. What information must the applicant provide?

This proposed rule would require each applicant who submits an HDE, PMA, supplement to a PMA, or PDP to include, if ''readily available,'' a description of any pediatric subpopulations that suffer from the disease or condition that the device is intended to treat, diagnose, or cure, and the number of affected pediatric patients. FDA is proposing to codify a definition of ''readily-available'' and also issue a draft guidance document to explain the Agency's current thinking on the meaning of ''readily-available information'' and how to comply with the requirements set forth in section 515A of the FD&C Act. The draft guidance document entitled ''Draft Guidance for Industry and Food and Drug Administration Staff: Providing Information About Pediatric Uses of Medical Devices Under Section 515A of the Federal Food, Drug, and Cosmetic Act'' is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm339162.htm*.

B. What are the consequences of not submitting ''readily available'' information?

If the applicant does not submit the information required by section 515A(a) of the FD&C Act, FDA may not approve the application until the applicant provides the required information. The Agency intends to contact the applicant during the normal course of our review to inform the applicant that the submission lacks the information required by section 515A(a) of the FD&C Act and by this proposed rule, and to ask the applicant to amend the application to provide the required information. If the application has no other deficiencies and otherwise meets applicable statutory and regulatory requirements for approval, but still lacks information required by section 515A(a) of the FD&C Act, the Agency intends to send the applicant an ''approvable'' letter informing them that FDA will approve the application after the applicant provides the information required by section 515A(a). If the application has other deficiencies or does not meet all applicable statutory and regulatory requirements for approval, the Agency intends to send the applicant a ''not approvable'' letter or a ''major deficiency'' letter describing what information or data the applicant needs to provide before FDA can approve the application; the ''not approvable'' or ''major deficiency'' letter may cite the absence of 515A(a) information in the section listing minor deficiencies. For additional information concerning ''approvable,'' ''not approvable,'' and ''major deficiency'' letters, see ''FDA and Industry Actions on Premarket Approval Applications (PMAs): Effect on FDA Review Clock and Goals,'' available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm089733.htm*.

V. What is the legal authority for this proposed rule?

Section 302 of the Food and Drug Administration Amendments Act of 2007 (FDAAA) (Pub. L. 110–85), amended the FD&C Act by adding, among other things, a new section 515A (21 U.S.C. 360e-1). Section 515A(a) of the FD&C Act requires persons who submit certain medical device applications to include, if readily available, a description of any pediatric subpopulations that suffer from the disease or condition that the device is intended to treat, diagnose, or cure, and the number of affected pediatric patients. Therefore, FDA is publishing this proposed rule under sections 515A(a) and 701(a) of the FD&C Act (21 U.S.C. 371) (which provides FDA the authority to issue regulations for the efficient enforcement of the FD&C Act). The Food and Drug Administration Safety and Innovation Act directs FDA to issue a proposed rule implementing section 515A(a) of the FD&C Act by December 31, 2012, and final rule by December 31, 2013.

VI. What is the environmental impact of this proposed rule?

FDA has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. What is the economic impact of this proposed rule?

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Agency believes that this proposed rule will not be a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this regulation only requires some submissions include a small amount of readily available information at about $80 per submission, the Agency proposes to certify that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local,

and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $139 million, using the most current (2011) Implicit Price Deflator for the Gross Domestic Product. We do not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

We believe that the only costs to industry are those that we account for in our Paperwork Reduction Act analysis (section VII of this document). The proposed rule does not require additional clinical research or other costly efforts, and simply requires the applicant to briefly summarize readily available information that will have been reviewed by the applicant during the course of its development of the device and preparation of its application to FDA. As explained in the Paperwork Reduction analysis, we expect to receive annually 40 PMAs and 5 applications for HDEs. We also expect to receive 693 supplements that would include the pediatric use information required by section 515A(a) of the FD&C Act and this proposed rule.

Based on our experience with similar requirements regarding readily available information, we estimate it would take 8 hours to gather and submit information for original applications and amendments to those applications. Because supplements can incorporate this information by reference if on a prior submission, we estimate it would take only 2 hours to obtain and submit the required information on pediatric populations.

The estimated time burden for all 45 annual applications is 360 hours. For the 693 supplements, the time burden is an estimated 1,386 hours for a total of 1,746 hours. The 2011 median wage for a compliance officer in the medical device manufacturing industry is $31.75 (Ref. 1). Adjusting the wage by average private sector benefits of 29.6 percent of total compensation, the benefits-adjusted wage is $45.10 (Ref. 2). At this wage, the estimated cost of submitting an application with pediatric information is $361 or $16,236 for all supplements. The estimated cost of submitting pediatric information for a supplement is $90 or $62,508 for all annual supplements. The estimated cost of this proposed rule is $78,744.

We expect FDA's additional costs will be inconsequential, as the information required here will be filed and managed as an integral part of each submission, using existing filing, storage, and data management systems and processes.

VIII. How does the paperwork reduction act of 1995 apply to this proposed rule?

This proposed rule contains information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

Title: Medical Devices; Pediatric Uses of Devices; Requirement for Submission of Information on Pediatric Subpopulations That Suffer from a Disease or Condition that a Device is Intended to Treat, Diagnose, or Cure.

Description: Section 515A(a) of the Food and Drug Administration Amendments Act of 2007 requires applicants who submit certain medical device applications to include readily available information providing a description of any pediatric subpopulations that suffer from the disease or condition that the device is intended to treat, diagnose, or cure, and the number of affected pediatric patients. The information submitted will allow FDA to track the number of approved devices for which there is a pediatric subpopulation that suffers from the disease or condition that the device is intended to treat, diagnose, or cure and the review time for each such device application.

Description of Respondents: These requirements apply to applicants who submit the following applications on or after the effective date of this rule:

- Any request for an HDE submitted under section 520(m) of the FD&C Act;
- Any PMA or supplement to a PMA submitted under section 515 of the FD&C Act;
- Any PDP submitted under section 515 of the FD&C Act.

Burden: FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
814.20(b)(13)	30	1	30	8	240
814.37(b)(2)	10	1	10	8	80
814.39(c)(2)	693	1	693	2	1,386
814.104(b)(6)	5	1	5	8	40
Totals	738		738		1,746

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

All that is required is to gather, organize, and submit information that is readily available, using any approach that meets the requirements of section 515A(a) of the FD&C Act and this proposed rule. FDA expects to receive approximately 45 original PMA/PDP/HDE applications each year, 5 of which FDA expects to be HDEs. This estimate is based on the actual average of FDA's receipt of new PMA applications in FY 2010–2011. The Agency estimates that 10 of those 40 original PMA submissions will fail to provide the required pediatric use information and their sponsors will therefore be required to submit PMA amendments. The Agency also expects to receive 693 supplements that will include the pediatric use information required by 515A(a) of the FD&C Act and this proposed rule. We believe that since the proposed rule would require that the applicant organize and submit only readily available information, no more than 8 hours will be required to comply with section 515A(a) of the FD&C Act and this proposed rule for original applications and amendments to those applications. Furthermore, because supplements may incorporate by reference readily-available information on pediatric populations if submitted in

a prior submission, FDA estimates the average time to obtain and submit the information required by this proposed rule in a supplement to be 2 hours. FDA estimates that the total burden created by this proposed rule is 1,786 hours.

We based this estimate on our experience with similar information collection requirements and on consultations with the Interagency Pediatric Devices Working Group that includes the Agency for Healthcare Research and Quality, FDA, National Institutes of Health, members of the Pediatric Advisory Committee, researchers, healthcare practitioners, medical device trade associations, and medical device manufacturers.

In compliance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Agency has submitted the information collection provisions of this proposed rule to OMB for review. As provided in 5 CFR 1320.5(c)(1), collections of information in a proposed rule are subject to the procedures set forth in 5 CFR 1320.10.

This proposed rule also refers to previously approved collections of information found in FDA regulations. The collections of information in 21 CFR part 814 subpart B have been approved under 0910–0231 and the collections of information in 21 CFR part 814 subpart H have been approved under 0910–0332.

Elsewhere in this issue of the **Federal Register**, FDA is publishing a draft guidance that suggests, among other things, that submissions include an estimate of the number of pediatric patients with diseases or conditions for which the device can be used, but that are outside the approved or proposed indication if such uses are described or acknowledged in acceptable sources of readily available information.

IX. What are the federalism impacts of this proposed rule?

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the proposed rule, if finalized, would not contain policies that would have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the Agency tentatively concludes that the proposed rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

X. How do you submit comments on this rule?

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

XI. References

The following references have been placed on display in the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. We have verified all the Web site addresses in the References section, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register.**

1. U.S. Bureau of Labor Statistics, 2011 National Industry-Specific Occupational Employment and Wage Estimates, SOC 13–1041. *http://www.bls.gov/oes/current/naics4_339100.htm.*

2. U.S. Bureau of Labor Statistics, Employer Costs for Employee Compensation, Table 5. Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Private industry workers, by major occupational group and bargaining unit status, June 2012. *http://www.bls.gov/news.release/ecec.t05.htm.*

List of Subjects in 21 CFR Part 814

Administrative practice and procedure, Confidential business information, Medical devices, Medical research, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 814 is proposed to be amended as follows:

PART 814—PREMARKET APPROVAL OF MEDICAL DEVICES

■ 1. The authority citation for 21 CFR part 814 continues to read as follows:

Authority: 21 U.S.C. 351, 352, 353, 360, 360c–360j, 371, 372, 373, 374, 375, 379, 379e, 381.

■ 2. In § 814.1, revise paragraph (a) to read as follows:

§ 814.1 Scope.

(a) This section implements sections 515 and 515A of the act by providing procedures for the premarket approval of medical devices intended for human use.

* * * * *

■ 3. In § 814.3, add paragraphs (p) and (q) to read as follows:

§ 814.3 Definitions.

* * * * *

(p) *Pediatric patients* means patients who are 21 years of age or younger (that is, from birth through the 21st year of life, up to but not including the 22d birthday) at the time of the diagnosis or treatment.

(q) *Readily available* means available in the public domain through commonly used public resources for conducting biomedical, regulatory, and medical product research.

■ 4. In § 814.20, redesignate paragraph (b)(13) as paragraph (b)(14) and add new paragraph (b)(13) to read as follows:

§ 814.20 Application.

* * * * *

(b) * * *

(13) *Information concerning uses in pediatric patients.* The application must include the following information, if readily available:

(i) A description of any pediatric subpopulations (neonates, infants, children, adolescents) that suffer from the disease or condition that the device is intended to treat, diagnose, or cure; and

(ii) The number of affected pediatric patients.

* * * * *

■ 5. In § 814.37, revise the section heading and paragraph (b) to read as follows:

§ 814.37 PMA amendments and resubmitted PMAs.

* * * * *

(b)(1) FDA may request the applicant to amend a PMA or PMA supplement with any information regarding the device that is necessary for FDA or the appropriate advisory committee to complete the review of the PMA or PMA supplement.

(2) FDA may request the applicant to amend a PMA or PMA supplement with information concerning pediatric uses as required under §§ 814.20(b)(13) and 814.39(c)(2).

* * * * *

■ 6. In § 814.39, redesignate paragraph (c) as (c)(1) and add paragraph (c)(2) to read as follows:

§ 814.39 PMA supplements.

* * * * *

(c) * * *

(2) The supplement must include the following information:

(i) Information concerning pediatric uses as required under § 814.20(b)(13).

(ii) If information concerning the device that is the subject of the supplement was previously submitted under § 814.20(b)(13) or under this section in a previous supplement, the applicant is not required to resubmit the information, but may include the information by referring to the previous application or submission that contains the information. However, if additional information required under § 814.20(b)(13) has become readily available to the applicant since the previous submission, the applicant must submit that information as part of the supplement.

* * * * *

■ 7. In § 814.44, redesignate paragraphs (e)(1)(ii) through (iv) as paragraphs (e)(1)(iii) through (v), respectively, and add new paragraph (e)(1)(ii) to read as follows:

§ 814.44 Procedures for review of a PMA.

* * * * *

(e) * * *

(1) * * *

(ii) The submission of additional information concerning pediatric uses required by § 814.20(b)(13);

* * * * *

■ 8. Amend § 814.100 as follows:

■ a. Redesignate paragraphs (b) through (e) as paragraphs (d) through (g), respectively.

■ b. Redesignate paragraph (a) as paragraph (b), and remove the first sentence of newly redesignated paragraph (b); and

■ c. Add new paragraphs (a) and (c) to read as follows:

§ 814.100 Purpose and scope.

(a) This subpart H implements sections 515A and 520(m) of the act.

* * * * *

(c) Section 515A of the act is intended to ensure the submission of readily available information concerning:

(1) Any pediatric subpopulations (neonates, infants, children, adolescents) that suffer from the disease or condition that the device is intended to treat, diagnose, or cure; and

(2) The number of affected pediatric patients who are 21 years of age or younger.

* * * * *

■ 9. Amend § 814.104 as follows:

■ a. Revise the last sentence of paragraph (b)(4)(ii);

■ b. Revise the last sentence of paragraph (b)(5); and

■ c. Add paragraph (b)(6).

The revisions and addition read as follows:

§ 814.104 Original applications.

* * * * *

(b) * * *

(4) * * *

(ii) * * * The effectiveness of this device for this use has not been demonstrated;

(5) * * * If the amount charged is $250 or less, the requirement for a report by an independent certified public accountant or an attestation by a responsible individual of the organization is waived; and

(6) Information concerning pediatric uses of the device, as required by § 814.20(b)(13).

* * * * *

■ 10. In 814.116, redesignate paragraphs (c)(2) through (4) as paragraphs (c)(3) through (5), respectively, and add new paragraph (c)(2) to read as follows:

§ 814.116 Procedures for review of an HDE.

* * * * *

(c) * * *

(2) The submission of additional information concerning pediatric uses of the device, as required by § 814.20(b)(13);

* * * * *

Dated: February 12, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–03647 Filed 2–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[SATS No. PA–159–FOR; Docket ID: OSM 2010–0017]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We are reopening the public comment period on the proposed amendment to the Pennsylvania regulatory program (the ''Pennsylvania program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) published on February 7, 2011. In response to a required program amendment codified in the Federal regulations, Pennsylvania submitted information that it believes demonstrates that sufficient funds exist to guarantee coverage of the full cost of land reclamation at all sites originally permitted and bonded under its now-defunct alternative bonding system. Pennsylvania requested that the program amendment be removed based on the information provided. The comment period is being reopened to incorporate subsequent information that we received from Pennsylvania regarding one permit involving land reclamation obligations. This document gives the times and locations that the Pennsylvania program and this submittal are available for your inspection, the comment period during which you may submit written comments, and the procedures that we will follow for the public hearing, if one is requested.

DATES: The comment period for the proposed rule published February 7, 2011 (76 FR 6587), and extended on June 13, 2011 (76 FR 64048), is reopened. We will accept written comments until 4 p.m., local time March 6, 2013.

ADDRESSES: You may submit comments, identified by ''PA–159–FOR; Docket ID: OSM–2010–0017'' by either of the following two methods:

Federal eRulemaking Portal: www.regulations.gov. The proposed rule has been assigned Docket ID: OSM–2010–0017. If you would like to submit comments through the Federal eRulemaking Portal, go to *www.regulations.gov* and follow the instructions.

Mail/Hand Delivery/Courier:

Mr. Ben Owens, Chief, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, 415 Market St., Suite 304, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036, Email: *bowens@osmre.gov.*

Thomas Callaghan, P.G., Director, Bureau of Mining and Reclamation, Pennsylvania Department of Environmental Protection, Rachel Carson State Office Building, P.O. Box 8461, Harrisburg, Pennsylvania 17105–8461, Telephone: (717) 787–5015, Email: *tcallaghan@state.pa.us mailto:*

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Comment Procedures'' heading of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Ben Owens, Telephone: (717) 782–4036. Email: *bowens@osmre.gov*

SUPPLEMENTARY INFORMATION: On February 7, 2011, (76 FR 6587), we published a proposed rule that was in response to a required program amendment codified in the Federal regulations. The submission included budgetary information that Pennsylvania had submitted to demonstrate that sufficient funds exist to guarantee coverage of the full cost of land reclamation at all sites originally permitted and bonded under the now-defunct alternative bonding system. Pennsylvania requested that the program amendment be removed based on the information provided.

On June 13, 2011, (76 FR 64048), we published a proposed rule to extend the public comment period and incorporate additional information from Pennsylvania regarding developments involving one permit that was transferred to another company, resulting in the posting of full-cost bond in an amount to cover the land reclamation obligation.

On November 6, 2012, (Administrative Record Number PA 802.85), we received additional information from Pennsylvania regarding recent developments involving another permit and its bonding status. Pennsylvania requested that the required amendment be removed based on the information provided.

We are reopening the comment period to incorporate the above-referenced subsequent information that we received from Pennsylvania on November 6, 2012.

Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the submission satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Pennsylvania program.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed above (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We would appreciate all comments relating to this specific issue, but those most useful and likely to influence decisions on the final rule will be those that either involve personal experience or include citations to and analysis of the Surface Mining Control and Reclamation Act of 1977, its legislative history, its implementing regulations, case law, other State or Federal laws and regulations, data, technical literature, or other relevant publications.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 25, 2013.

Thomas D. Shope,

Regional Director, Appalachian Region.

[FR Doc. 2013–03567 Filed 2–15–13; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0888; FRL–9780–7]

Approval and Promulgation of Implementation Plans Tennessee: Revisions to Volatile Organic Compound Definition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve changes to the Tennessee State Implementation Plan (SIP), submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation on September 3, 1999. Tennessee's September 3, 1999, SIP revision adds 17 compounds to the list of compounds excluded from the definition of ''Volatile Organic Compound''. EPA is approving this SIP revision because the State has demonstrated that it is consistent with the Clean Air Act.

In the Final Rules Section of this **Federal Register**, EPA is approving the State's implementation plan revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before March 21, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0888, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov*.
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2012–0888,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the

Rules Section of this **Federal Register**. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: February 5, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2013–03608 Filed 2–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2011–0417; FRL–9780–4]

RIN 2060–AR74

Greenhouse Gas Reporting Rule: Revision to Best Available Monitoring Method Request Submission Deadline for Petroleum and Natural Gas Systems Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to revise the deadline by which owners or operators of facilities subject to the petroleum and natural gas systems source category of the Greenhouse Gas Reporting Rule must submit requests for use of best available monitoring methods to the Administrator. This proposed revision does not change any other requirements for owners or operators as outlined in the best available monitoring method rule provisions.

DATES: Written comments must be received on or before March 21, 2013.

Public Hearing. A public hearing will be held if requested. To request a hearing, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by February 26, 2013. If requested, the hearing will be conducted on March 6, 2013, in the Washington, DC area. EPA will publish a notice in the **Federal Register** with further information about the public hearing if a public hearing is requested.

ADDRESSES: Submit your comments, identified by docket ID No. EPA–HQ–OAR–2011–0417 by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: GHG_Reporting_Rule_Oil_And_Natural_Gas@epa.gov*.
- *Fax:* (202) 566–9744.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 6102T, Attention Docket ID No. EPA–HQ–OAR–2011–0417, 1200 Pennsylvania Avenue NW., Washington, DC 20460.
- *Hand/Courier Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2011–0417. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. Send or deliver information identified as CBI to only the mail or hand/courier delivery address listed above, attention: Docket ID No. EPA–HQ–OAR–2011–0417. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov index.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West Building, Room B102, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGReportingRule@epa.gov*. For technical information, contact the Greenhouse Gas Reporting Rule Hotline at: *http://www.epa.gov/ghgreporting/reporters/index.html*. To submit a question, select Rule Help center, then select Contact us.

SUPPLEMENTARY INFORMATION:

Why is the EPA issuing this proposed rule?

EPA is proposing to revise the deadline in 40 CFR 98.234(f)(8)(i) by which owners or operators of facilities subject to the petroleum and natural gas systems source category, subpart W, of the Greenhouse Gas Reporting Rule must submit a request to use best available monitoring methods to the Administrator. We have published a direct final rule making this revision in the ''Rules and Regulations'' section of this **Federal Register** because the EPA views this as a noncontroversial action and no adverse comments are anticipated. A further explanation for the reasons for this action is in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If the EPA receives relevant adverse comment, we will publish a timely withdrawal notice in the **Federal Register** to inform the public that the direct final rule, or the relevant portion of the direct final rule, will not take effect. The rule provisions

that are not withdrawn will become effective on the date set out in the direct final rule, notwithstanding relevant adverse comment on any other provision, unless we determine that it would not be appropriate to promulgate those provisions due to their being affected by the provision for which we receive relevant adverse comment. If the EPA does receive relevant adverse comment on the direct final rule and withdraws the direct final rule, we will address all public comments in any subsequent final rule based on this proposal. We will not institute a second comment period on this action. Any parties interested in commenting on the specific changes being made must do so by the comment deadline listed in the **DATES** section of this document. The EPA will not consider a comment to be adverse if a comment pertains to an aspect of part 98 or 40 CFR part 98, subpart W that is not addressed in the direct final rule. For further information about commenting on this action, please see the information provided in the **ADDRESSES** section of this document.

List of Subjects in 40 CFR Part 98

Environmental protection, Administrative practice and procedures, Air pollution control, Greenhouse gases, Monitoring, Reporting and recordkeeping requirements.

Dated: February 6, 2013.

Lisa P. Jackson,

Administrator.

[FR Doc. 2013–03468 Filed 2–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1990–0011; FRL–9780–5]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List: Deletion of the Kerr-McGee (Sewage Treatment Plant) Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule: notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 5 is issuing a Notice of Intent to Delete the Kerr-McGee Sewage Treatment Plant Superfund Site located in West Chicago, DuPage County, Illinois from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA and the State of Illinois, through the Illinois Environmental Protection Agency (IEPA), have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by March 21, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1990–0011, by one of the following methods:

- *http://www.regulations.gov:* Follow online instructions for submitting comments.
- *Email:* Gladys Beard, NPL Deletion Process Manager, at *beard.gladys@epa.gov* or Janet Pope, Community Involvement Coordinator, at *pope.janet@epa.gov*.
- *Fax:* Gladys Beard, NPL Deletion Process Manager, at (312) 697–2077.
- *Mail:* Timothy Fischer, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–7253, or Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353–0628 or (800) 621–8431.
- *Hand delivery:* Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal business hours are Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–1990–0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information may not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at:

- U.S. Environmental Protection Agency—Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, Phone: (312) 353–1063. Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.
- West Chicago Public Library, 118 West Washington Street, West Chicago, IL 60185, Phone: (630) 231–1552. Hours: Monday through Thursday, 9:30 a.m. to 9:00 p.m. CST, Friday and Saturday, 9:00 a.m. to 5:00 p.m. CST, Sunday, 1:00 p.m. to 5:00 p.m. CST.

FOR FURTHER INFORMATION CONTACT: Timothy Fischer, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–4737, or *fischer.timothy@epa.gov*.

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of the Kerr-McGee (Sewage Treatment Plant) Superfund Site without prior Notice of Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final

Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the ''Rules and Regulations'' section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Radiation protection, Radionuclides, Reporting and recordkeeping requirements, Superfund, Water pollution control, and Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: January 28, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–03602 Filed 2–15–13; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 78, No. 33
Tuesday, February 19, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Request for Proposals: 2013 Hazardous Fuels Woody Biomass Utilization Grant Program

AGENCY: U.S. Forest Service, USDA.

ACTION: Request for Proposals.

SUMMARY: The Department of Agriculture (USDA), Forest Service, State and Private Forestry (S&PF), Technology Marketing Unit, located at the Forest Products Laboratory, requests proposals for wood energy projects that require engineering services. These projects will use woody biomass, such as material removed from forest restoration activities, wildfire hazardous fuel treatments, insect and disease mitigation, forest management due to catastrophic weather events, and/or thinning overstocked stands. The woody biomass shall be used in a bioenergy facility that uses commercially proven technologies to produce thermal, electrical or liquid/gaseous bioenergy. The funds from the Hazardous Fuels Woody Biomass Utilization Grant program (WBU) must be used to further the planning of such facilities by funding the engineering services necessary for final design and cost analysis. Examples of projects might include engineering design of a woody biomass boiler for steam at a sawmill, hospital or school; non-pressurized hot water system for various applications; and biomass power generation facility. To join in support of the public interest and general welfare, to protect communities and critical infrastructure, the applicants applying to this program seek assistance to complete the necessary engineering design work required to secure public and/or private funding for construction for developing local enterprises to better utilize woody biomass. An example of public funding is the USDA Rural Development grants and loan programs that might help fund construction of such facilities. The lack of a professional engineering design often limits the ability of an applicant or business to secure Federal, State or private funding.

DATES: Monday, April 8, 2013, Application Deadline.

ADDRESSES: All applications must be sent to the respective Forest Service Regional Office listed below for initial review. These offices will be the point of contact for final awards.

Forest Service Region 1, (MT, ND, Northern ID & Northwestern SD), ATT: Angela Farr, USDA Forest Service, Northern Region (R1), Federal Building, 200 East Broadway, Missoula, MT 59807, *afarr@fs.fed.us,* (406) 329–3521.	Forest Service Region 2, (CO, KS, NE, SD, & WY), ATT: Sherry Hazelhurst, USDA Forest Service, Rocky Mountain Region (R2), 740 Simms St. Golden, CO 80401–4702, *shazelhurst@fs.fed.us,* (303) 275–5750.
Forest Service Region 3, (AZ & NM), ATT: Dennis Dwyer, USDA Forest Service, Southwestern Region (R3), 333 Broadway Blvd. SE., Albuquerque, NM 87102, *ddwyer@fs.fed.us,* (505) 842–3480.	Forest Service Region 4, (Southern ID, NV, UT, & Western WY), ATT: Scott Bell, USDA Forest Service, Intermountain Region (R4), Federal Building, 324 25th St., Ogden, UT 84401, *sbell@fs.fed.us,* (801) 625–5259.
Forest Service Region 5, (CA, HI, Guam and Trust Territories of the Pacific Islands), ATT: Larry Swan, USDA Forest Service, Pacific Southwest Region (R5), 1323 Club Drive, Vallejo, CA 95492–1110, *lswan01@fs.fed.us,* (707) 562–8917.	Forest Service Region 6, (OR & WA), ATT: Ron Saranich, USDA Forest Service, Pacific Northwest Region (R6), 333 SW 1st Ave., Portland, OR 97204, *rsaranich@fs.fed.us,* (503) 808–2346.
Forest Service Region 8, (AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA, Virgin Islands & Puerto Rico), ATT: Dan Len, USDA Forest Service, Southern Region (R8), 1720 Peachtree Rd. NW., Atlanta, GA 30309, *dlen@fs.fed.us,* (404) 347–4034.	Forest Service Region 9, (CT, DL, IL, IN, IA, ME, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, WV, WI), ATT: Lew McCreery, Northeastern Area—S&PF, 180 Canfield St., Morgantown, WV 26505, *lmccreery@fs.fed.us,* (304) 285–1538.
Forest Service Region 10, (Alaska), ATT: Daniel Parrent, USDA Forest Service, Alaska Region (R10), 161 East 1st Avenue, Door 8, Anchorage, AK 99501, *djparrent@fs.fed.us,* (907) 743–9467.	

Detailed information regarding what to include in the application, definitions of terms, eligibility, and necessary prerequisites for consideration is available at *www.fpl.fs.fed.us/tmu* and at *www.grants.gov.* Paper copies of the information are also available by contacting the Forest Service, S&PF Technology Marketing Unit, One Gifford Pinchot Drive, Madison, Wisconsin 53726–2398, 608–231–9504.

FOR FURTHER INFORMATION CONTACT: For questions regarding the grant application or administrative regulations, contact your appropriate Forest Service Regional Biomass Coordinator as listed in the addresses above or contact the Technology Marketing Unit, Madison, WI, (608) 231–9504, *dtucker@fs.fed.us.mailto:* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: To address the goals of Public Law 110–234, *Food, Conservation, and Energy Act of 2008, Rural Revitalization Technologies (7 U.S.C. 6601),* and the anticipated *Department of the Interior, Environment and Related Agencies Appropriation Act of 2013,* the Agency is requesting proposals to address the

nationwide challenge of using low-value woody biomass material to create renewable energy and protect communities and critical infrastructure from wildfires.

Goals of the grant program are to:

- Promote projects that target and help remove economic and market barriers to using woody biomass for renewable energy.
- Assist projects that produce renewable energy from woody biomass while protecting the public interest.
- Reduce the public's cost for forest restoration by increasing the value of biomass and other forest products generated from hazardous fuels reduction and forest health activities on forested lands.
- Create incentives and/or encourage business investment that uses woody biomass from our nation's forestlands for renewable energy projects.

Grant Requirements

1. Eligibility Information

a. Eligible Applicants. Eligible applicants are businesses, companies, corporations, state, local and tribal governments, school districts, communities, non-profit organizations, or special purpose districts (*e.g.,* public utilities districts, fire districts, conservation districts, or ports). Only one application per business or organization shall be accepted.

b. Cost Sharing (Matching Requirement). Applicants shall demonstrate at least a 20% match of the *total project cost.* This match shall be from non-federal sources, which can include cash or in-kind contributions.

c. DUNS Number. All applicants shall include a Dun and Bradstreet, Data Universal Numbering System (DUNS) number in their application. For this requirement, the applicant is the entity that meets the eligibility criteria and has the legal authority to apply for and receive a WBU grant. For assistance in obtaining a DUNS number at no cost, call the DUNS number request line (1–866–705–5711) or register on-line at *http://fedgov.dnb.com/webform.*

d. System for Award Management (SAM). The applicant should be aware that prospective awardees shall be registered in the SAM database prior to award, during performance, and through final payment of any grant resulting from this solicitation. Further information can be found at *www.sam.gov.* For assistance, contact the SAM Assistance Center (1–866–606–8220).

2. Award Information

Total funding anticipated for awards is about $3.0 million for the 2013 WBU program. Individual grants cannot exceed $250,000. The Federal government's obligation under this program is contingent upon the availability of 2013 appropriated funds. No legal liability on the part of the Government shall be incurred until appropriated funds are available and committed in writing through a grant award letter issued by the grant officer to the applicant. Grants can be for two years from the date of award. Written annual financial performance reports and semi-annual project performance reports are required and shall be submitted to the appropriate grant officer. A grant awarded under this program will generate an IRS Form 1099 Miscellaneous Income that will be filed with the Internal Revenue Service (IRS) and provided to the awardee. However, the USDA expresses no opinion on the taxability, if any, of the grant funds awarded. Awardees are expected to follow all Occupational Safety and Health Administration (OSHA) requirements regarding safe working practices and all applicable Federal, State and local regulations pertinent to the proposed project.

3. Application Prerequisites

This grant program requires that projects have had considerable advance work completed prior to submitting a grant application. Only applicants that have already completed and submitted with their applications: (a) A Comprehensive Feasibility Assessment of the project by qualified and credible parties, (b) a Woody Biomass Resource Supply Assessment and, (c) past three years of financial statements (balance sheets, income statements and cash flow analysis) shall be considered. Corporate annual reports will not be accepted as evidence of due diligence for a business. In addition, for-profit applicants, as well as non-profit organizations should have a Dun and Bradstreet rating that falls within the following categories:

(1) Financial stress rating should be 1, 2 or 3;

(2) Credit score should be 1, 2 or 3; and

(3) Paydex score should be between 60 and 100 (0 being the lowest and 100 the highest).

For state, local and tribal governments and other governmental entities (school districts), appropriate sector ratings from Moody's should be in the range from Aaa to A. Entities with Municipal Bond rating Baa to Ba will be considered with reservations. Entities with Municipal Bond Ratings between B and C (including B, Caa, Ca, and C) will not qualify. The two assessments and three years of financial statements shall be included with the submission. The Dun and Bradstreet and Moody's financial ratings will be obtained by the Technology Marketing Unit for the review process as evidence of the financial capability of the applicant. Applicants will not be charged for the Dun and Bradstreet or Moody's reports. All financial information is kept confidential.

a. The Comprehensive Feasibility Assessment shall address, at minimum, the following items:

- Economic feasibility analysis of site, labor force wages and availability, utilities, access and transportation systems, raw material feedstock needs, and overall economic impact, including job creation and retention, displayed by employment associated with operating the facility itself and supplying the facility (jobs created and jobs retained on a full-time equivalent basis). Also required in the economic analysis is a market feasibility study, including analysis of the market(s) for the power, heat, fuel, or other energy product produced, market area, marketing plans for projected output, if needed, extent of competition for the particular target market(s), extent of competition for supply and delivered costs and general characterization of supply availability (more detailed information is provided in the Woody Biomass Resource Supply Assessment section).
- Technical feasibility analysis shall include an assessment of the recommended renewable energy technology, what other technologies were considered, why the recommended renewable energy technology was chosen, assessment of site suitability given the recommended renewable energy technology, actions and costs necessary to mitigate environmental impacts sufficient to meet regulatory requirements, developmental costs, capital investment costs, operational costs, projected income, estimated accuracy of these costs and income projections, realistic sensitivity analysis with clear and explicit assumptions, and identification of project constraints or limitations.
- Financial feasibility analysis shall include projected income and cash flow for at least 36 months, description of cost accounting system, availability of short-term credit for operational phase, and *pro forma* financial statement with clear and explicit assumptions.
- List of personnel and teams undertaking project development, implementation and operations, including a clear description of how continuity between project phases will be maintained. Describe the qualification of each team member

including education and management experience with the same or similar projects, and how recently this experience occurred.

b. The Woody Biomass Resource Supply Assessment shall provide a description of the available woody biomass resource supply. At a minimum the assessment should address the following items:

- Feedstock location and procurement area relative to the project site;
- Types of biomass fuel available and realistic pricing information based on fuel specifications required by the technology chosen, including explicit break-out of forest-sourced, agricultural-sourced and urban-sourced biomass.
- Volume potentially available by ownership, fuel type and source of biomass supply, considering recovery rates and other factors, such as Federal, State and local policy and management practices;
- Volume realistically and economically available by ownership, fuel type and source of biomass supply, considering recovery rates and other factors, such as Federal, State and local policy and management practices;
- Detailed risk assessment of future biomass fuel supply including, but not limited to, impacts of potential Federal, State and local policy changes, availability of additional fuel types, increased competition for biomass resource supply and changes in transportation costs;
- Summary of total fuel realistically and economically available compared to projected annual fuel use (i.e., a ratio usually exceeding 2.0:1); and
- Minimum five-year biomass fuel pricing forecast for material or blend of material meeting fuel specifications delivered to project site (required for financial *pro forma*).

c. Financial Statements: All applicants shall submit the last three years of historical financial statements (balance sheets, income statements, and cash flow analysis).

4. Application Evaluation

Applications are evaluated against criteria discussed in Section 5. All applications shall be screened to ensure compliance with the administrative requirements as set forth in this Request for Proposals (RFP). Applicants not following the directions for submission shall be disqualified without appeal. Directions can be found at *www.fpl.fs.fed.us/tmu* under 2013 Woody Biomass Utilization Grant Program. The appropriate Forest Service region shall provide a preliminary review based on grant administrative requirements and regional priorities of environmental, social, and economic impacts. Each region may submit up to seven proposals for the nationwide competition. The nationwide competition will consist of a technical and financial review of the proposed project by Federal experts from different federal agencies, experienced in energy systems, financing projects, and/or forestry. Panel reviewers will independently evaluate each proposed project for technical and financial merit and assign a score using the criteria listed in Section 5. Technical and financial merits, along with the regional priorities, will be submitted to the Forest Service national leadership for final selection and announcement.

5. Evaluation Criteria and Point System

If a reviewer determines that a proposal meets basic requirements for a criterion, half the number of available points will be awarded. More points can be earned if the reviewer determines that a proposal exceeds the basic criteria and fewer if a proposal falls short of the basic criteria. A maximum of 225 total points can be earned by a proposal.

Criteria:

a. Required Comprehensive Feasibility Assessment is thorough and complete, conducted by a qualified and experienced professional team; and project is economically viable using relevant and accepted financial metrics. Total Points 30

b. Required Woody Biomass Resource Supply Assessment conforms to professional standards for size and complexity of proposed facility, is suitable for appropriate lender or public financing review; and projected biomass quantity and sourcing arrangements from forested land management activities are clearly identified on an annual basis. Total Points 30

c. Number of projected jobs created and/or retained (direct or indirect) when project goes in service is reasonable and substantiated. Total Points 15

d. Amount and type of fossil fuel offset in therms/year and increased system fuel use efficiency (in percentage) once project is operational. Annualized fuel use efficiency for average annual system conditions is calculated as follows: Fuel Use efficiency = (Net BTUs used by processes + BTUs of electricity produced by generator) divided by (BTUs of inputted fuel to boiler (HHV)). Project provides impact in geographic area appropriate for size of projected facility and is reasonable and substantiated. (Note: 1 therm = 100,000 BTUs). Examples of typical energy efficiencies include: 1) Electricity only = 25%; 2) electricity plus low pressure steam for dry kilns = 45%; and 3) boiler processes that use backpressure turbine ahead of process = 65%. All calculations shall be shown. (See *www.fpl.fs.fed.us/tmu* under Woody Biomass Grant program for Btu content of wood at various moisture contents.) Total Points 30

e. Documentation of collaborations and qualifications necessary for the development and operation of the proposed facility, including roles and directly relevant qualifications of Development, Engineering, Management, Construction, and Operations Teams or similar, are adequate and appropriate for project. Total Points 30

f. Proposed engineering design components reflect accepted professional standards for type and complexity of proposed facility and are complete. Total Points 20

g. Financial plan and sources of funding are described in detail for all phases of the project, including, but not limited to, development, construction and operations. Total Points 30

h. Detailed description of federal, state and local environmental, health and safety regulatory and permitting requirements, and realistic projected timeline for completion are provided. Total Points 30

i. Description of outreach efforts to maximize dissemination of project results and pass on lessons learned. Total Points 10

6. Application Information

a. Application Submission. Applications shall be time stamped showing the time of sending by United States Postal Service or other commercial delivery company no later than midnight Monday, April 8, 2013. No exceptions. If submitted through *grants.gov,* the date submitted shall be by midnight Monday, April 8, 2013. One paper copy and an electronic version shall be submitted to the Regional Biomass Coordinator of your Forest Service region, as listed previously in the **ADDRESSES** section even if submitted through *grants.gov.* Your Forest Service region is generally determined by the state in which the bioenergy facility is located. However, in a few instances, two Forest Service regions may exist in one state. Forest Service regions can be located at *http://www.fs.fed.us/maps/products/guide-national-forests09.pdf.* The electronic version submitted to the Regional Biomass Coordinator should be a single pdf file on a USB flash drive or compact disc (CD). No emails shall be accepted.

Applications may also be submitted electronically through *www.grants.gov.*

b. Application Format and Content. Each submittal should be in PDF format. The application template form FPL–1500–4 is in word format and is recommended to be used. After completing the template, the document should be saved as a PDF format either using Adobe Acrobat or Word software. The template form FPL–1500–4 along with directions for completing can be found at the *www.fpl.fs.fed.us/tmu.* Paper copy shall be single sided on 8.5-by 11-inch plain white paper only (no colored paper, over-sized paper, or special covers). Do not staple. All forms and application template can be found at *www.fpl.fs.fed.us/tmu* 2013 Hazardous Fuels Woody Biomass Utilization Grant Program.

Outline of form FPL–1500–4 and mandatory appendices

(1) Project Summary Sheet

(2) Title Page

(3) Project Narrative

The project narrative shall provide a clear description of the work to be performed, impact on removing woody biomass and creating renewal energy (e.g., tons of biomass removed that would have otherwise been burned, cost savings to landowners, source of biomass removed from forested areas, broken-out by ownership), and how jobs will be created and/or retained, and sustained. Application narrative should address the 15 discussion areas listed on the form FPL–1500–4.

(4) Budget Summary Justification in Support of SF 424A.

(5) Qualifications and Summary Portfolio of Engineering Services

For the engineering systems, the project usually consists of a system designer, project manager, equipment supplier, project engineer, construction contractor or system installer and a system operator and maintainer. One individual or entity may serve more than one role. The project team must have demonstrated expertise in similar bioenergy systems development, engineering, installation, and maintenance. Authoritative evidence that project team service providers have the necessary professional credentials or relevant experience to perform the required services must be provided. Authoritative evidence that vendors of proprietary components can provide necessary equipment and spare parts for the system to operate over its design life must also be provided. A list of the same or similar projects designed, installed and currently operating with references shall be provided along with appropriate contacts.

(6) Community Benefit Statement.

Provide a one page narrative on the social, environmental and economic impacts and the importance of the project to the community. Include substantiated facts and benefits, such as local employment rate, per capita income and fossil fuel impacts with and without the project. Include letters of support from community leaders demonstrating on-going community collaboration, where appropriate, in the appendix. Forest Service regions shall use this information to help evaluate regional impacts, particularly impact of job creation and retention as appropriate at the geographic scale for the region and how this grant award provides for the overall general welfare of the region.

(7) Appendices.

The following information shall be included in the appendices and scanned into a single PDF file:

a. Comprehensive Feasibility Assessment.

b. Woody Biomass Resource Supply Assessment.

c. Quotes for Professional Engineering Services considered (minimum of two quotes): Rationale for selection of engineering firm, if already selected.

d. Letters of Support from Partners, Individuals, or Organizations: Letters of support shall be included in an appendix and are intended to display the degree of collaboration occurring between the different entities engaged in the project. These letters shall include partner commitments of cash or in-kind services from all those listed in the SF 424 and SF 424A. Each letter of support is limited to one page in length.

e. Federal Funds: List all other Federal funds received for this project within the last three years. List agency, program name, and dollar amount.

f. Miscellaneous, such as schematics.

g. Last three years of financial statements (balance sheets, income statements, cash flow analysis).

h. Administrative Forms: SF 424, SF 424A, SF 424B and AD 1047, 1048, 1049 and certificate regarding lobbying activities are standard forms that shall be included in the application. These forms can be accessed at *www.fpl.fs.fed.us/tmu* under 2013 Woody Biomass Grant Program.

Dated: November 2, 2012.

Victoria Christiansen,

Acting Associate Deputy Chief.

[FR Doc. 2013–03768 Filed 2–15–13; 8:45 am]

BILLING CODE 3410–11–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the South Carolina Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the South Carolina Advisory Committee (Committee) will convene on Tuesday, March 5, 2013, at 10:30 a.m. and adjourn at approximately 11:30 a.m. The meeting will be held at the Aiken County Public Library, 314 Chesterfield Street SW., Aiken, South Carolina, 29801. The purpose of the meeting is for the Committee to receive ethics training and orientation and plan future activities.

Members of the public are entitled to submit written comments; the comments must be received in the regional office by April 5, 2013. Written comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth St. SW., Suite 16T126, Atlanta, GA 30303. They may also be faxed to the Commission at (404) 562–7005, or emailed to the Commission at *pminari@usccr.gov*. Persons who desire additional information may contact the Southern Regional Office at (404) 562–7000.

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Southern Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Southern Regional Office at the above email or street address.

The meeting will be conducted pursuant to the rules and regulations of the Commission and FACA.

Dated in Washington, DC, February 13, 2013.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2013–03715 Filed 2–15–13; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Economic Surveys of U.S. Commercial Fisheries.

OMB Control Number: 0648–0369.

Form Number(s): NA.

Type of Request: Regular submission (revision and extension of a current information collection).

Number of Respondents: 10,380.

Average Hours per Response: 2 hours.

Burden Hours: 21,000 (for the three-year approval period).

Needs and Uses: This request is for an extension and revision of a currently approved generic collection.

Economic data for selected United States (U.S.) commercial fisheries will be collected for each of the following groups of operations, based on pre-approved questions: (1) Processors, including onshore plants, floating processing plants, mothership vessels, and catcher/processor vessels; (2) first receivers of fish, including dealers, wholesalers, and auctions; (3) catcher vessels; and (4) for-hire vessels. Companies associated with these groups will be surveyed for expenditure, earnings, effort, ownership, and employment data; and basic demographic data on fishing and processing crews. These economic data collection programs contribute to legally mandated analyses required under the Magnuson-Stevens Fishery Conservation and Management Act (MFCMA), the National Environmental Policy Act (NEPA), the Regulatory Flexibility Act (RFA), Executive Orders 12866 and 13563 (EO 12866 and EO 13563) as well as a variety of state statutes including Florida Statute 120.54, Hawaii Revised Statute 201M–2, New Jersey Permanent Statutes 52:14B–19 and Oregon Revised Statutes 183.335 and 183.540.

In general, questions will be asked concerning ex-vessel and wholesale prices and revenue, variable and fixed costs, expenditures, effort, ownership, dependence on the fisheries, and fishery employment. The data collection efforts will be coordinated to reduce the additional burden for those who participate in multiple fisheries. Participation in these data collections will be voluntary.

Program change: We are adding questions for first receivers to this collection.

The data will be used for the following three purposes: (1) To monitor the economic performance of these fisheries through primary processing; (2) to analyze the economic performance effects of current management measures; and (3) to analyze the economic performance effects of alternative management measures. The measures of economic performance to be supported by this data collection program include the following: (1) Contribution to net national benefit; (2) contribution to income of groups of participants in the fisheries (i.e., fishermen, vessel owners, processing plant employees, and processing plant owners); (3) employment; (4) regional economic impacts (income and employment); and (5) factor utilizations rates. As required by law, the confidentiality of the data will be protected.

Data collections will focus each year on a different component of the U.S. commercial fisheries, with only limited data collected in previously surveyed components of these fisheries. The latter will be done to update the models that will be used to track economic performance and to evaluate the economic effects of alternative management actions. This cycle of data collection will facilitate economic performance data being available and updated for all the components of the U.S. commercial fisheries identified above.

Affected Public: Business or other for-profit organizations.

Frequency: One time for each survey.

Respondent's Obligation: Voluntary.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: February 12, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–03680 Filed 2–15–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–73–2012]

Foreign-Trade Zone 181—Akron/Canton, OH, Authorization of Production Activity, Cimbar Performance Minerals, (Barium Sulfate Grinding), Wellsville, OH

On October 10, 2012, the Northeast Ohio Trade & Economic Consortium, grantee of FTZ 181, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of Cimbar Performance Minerals, within FTZ 181—Site 12, in Wellsville, Ohio.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (77 FR 63290, October 16, 2012). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: February 6, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–03739 Filed 2–15–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–74–2012]

Foreign-Trade Zone 176—Rockford, IL, Authorization of Production Activity, AndersonBrecon Inc. (Medical Device Kitting), Rockford, IL

On October 12, 2012, AndersonBrecon Inc. submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility within FTZ 176—Site 1, in Rockford, Illinois.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (77 FR 64311, 10–19–2012). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: February 11, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–03744 Filed 2–15–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–703]

Certain Granular Polytetrafluoroethylene Resin From Italy: Rescission of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from an interested party, the Department of Commerce (''the Department'') initiated an administrative review of the antidumping duty order on certain granular polytetrafluoroethylene (''PTFE'') resin from Italy. The period of review is August 1, 2011, through July 31, 2012. Based on the withdrawal of the request for review, we are now rescinding this administrative review.

DATES: *Effective Date:* February 19, 2013.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg or Yasmin Nair, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1785 or (202) 482–3183, respectively.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to a request by Industrial Plastics and Machine, Inc. (''Industrial Plastics''), a U.S. importer of subject merchandise, the Department initiated an administrative review of Guarniflon SpA, an Italian producer and exporter of the subject merchandise.[1] Industrial Plastics withdrew its request for an administrative review of Guarniflon SpA on December 26, 2012.[2]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. As noted above, Industrial Plastics withdrew its request for review of Guarniflon SpA within 90 days of the date of publication of the notice of initiation. No other parties requested a review. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review in its entirety.

Assessment

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice of rescission of administrative review.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: February 11, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–03745 Filed 2–15–13; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 77 FR 59168 (September 26, 2012).

[2] *See* Letter from Industrial Plastics and Machine, Inc. to the Department, dated December 26, 2012, at 1.

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review of the Department of Commerce's final determination of Stainless Steel Sheet and Strip in Coils from Mexico (Secretariat File No. USA–MEX–2010–1904–01).

SUMMARY: Pursuant to the Order of the Binational Panel dated January 11, 2013, the panel review was completed on February 12, 2013.

FOR FURTHER INFORMATION CONTACT: Ellen Bohon, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: On January 8, 2013, the Binational Panel issued an Order granting a joint motion filed by the Investigating Authority (U.S. Department of Commerce) and the Complainant (ThyssenKrupp Mexinox S.A. de C.V. and Mexinox USA, Inc.) to dismiss the panel review concerning the Department of Commerce's final determination concerning Stainless Steel Sheet and Strip in Coils from Mexico. The Secretariat was instructed to issue a Notice of Completion of Panel Review on the 31st day following the issuance of the Notice of Final Panel Action, if no request for an Extraordinary Challenge Committee was filed. No such request was filed. Therefore, on the basis of the Panel Order and Rule 80 of the *Article 1904 Panel Rules,* the Panel Review was completed and the panelists were discharged from their duties effective

Dated: February 12, 2013.

Ellen M. Bohon,

United States Secretary, NAFTA Secretariat.

[FR Doc. 2013–03747 Filed 2–15–13; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC414

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of an application for an exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from Dr. John R. Gold (Texas A&M University). If granted, the EFP would authorize the applicant to use the captain and crew of a charter vessel to collect a total of 125–150 adult red snapper, south of the Florida Keys and near the Dry Tortugas, FL. Samples would be collected over multiple trips using conventional hook-and-line gear from deep water. Small pieces of fin tissue and otoliths would be collected from the fish for genetic analysis, and age and growth studies. Additional information on the geographic origin, degree of connectivity, and life history of red snapper would provide the South Atlantic Fishery Management Council (Council) and NMFS data that may be used for future management of red snapper stocks in the South Atlantic and Gulf of Mexico (Gulf). Collections would occur from April 1, 2013, to March 31, 2014.

DATES: Comments must be received no later than 5 p.m., eastern time, on March 21, 2013.

ADDRESSES: You may submit comments, identified by RIN 0648–XC414, on the application by any of the following methods:

- *Email: nikhil.mehta@noaa.gov.* Include in the subject line of the email comment the following document identifier: ''John Gold EFP 2013''.
- *Mail:* Nikhil Mehta, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

The application and related documents are available for review upon written request to any of the above addresses.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, 727–824–5305; email: *Nikhil.mehta@noaa.gov.*

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

The described research is part of a Marine Fisheries Initiative funded study titled, ''Stock structure, connectivity, and effective population size of red snapper (*Lutjanus campechanus*) in U.S. waters of the Gulf of Mexico.'' Objectives of the study are to: (i) Further refine a geographic stock model in areas from southern Texas to the southwest coast of Florida; (ii) quantify historical and present connectivity (genetic migration) among sampled locations in the Gulf and South Atlantic; and (iii) utilize recently developed algorithms to estimate the effective number of breeding adult red snapper at each sample location.

If granted, the EFP would authorize the applicant and the captain and crew of a charter vessel to collect a total of 125–150 red snapper using conventional hook-and-line gear from deep water (200–240 ft (61–73 m)). Red snapper would be collected over multiple 2–3 day trips south of the Florida Keys and near the Dry Tortugas, FL. The fish would be placed on ice and the fins removed at the end of each fishing day. Small pieces of red snapper fin tissue would be placed into sample tubes containing a non-flammable, non-explosive fixative. Upon reaching the dock, all the fish and tubes with fin clips would be collected by a NMFS port sampler. After a total of 125–150 red snapper have been sampled, the fin clips would be shipped to the laboratory at Texas A&M University in College Station, TX, for genetic analysis. Otoliths would also be removed from the collected red snapper by the NMFS port sampler to facilitate age and growth studies.

The proposed collection for scientific research involves activities that would otherwise be prohibited by regulations at 50 CFR part 622, as they pertain to red snapper managed by the Council. The EFP would exempt this research activity from Federal regulations at § 622.32(b)(3)(vi) (Prohibited and limited harvest species) and § 622.37(e)(v) (Size limits).

NMFS finds this application warrants further consideration. Possible conditions the agency may impose on this permit, if it is granted, include but are not limited to, a prohibition of conducting research within marine protected areas, marine sanctuaries, or special management zones, without additional authorization. A report on the research would be due at the end of the collection period, to be submitted to NMFS and reviewed by the Council.

A final decision on issuance of the EFP will depend on NMFS' review of public comments received on the application, consultations with appropriate fishery management agencies of the affected states, the Council, and the U.S. Coast Guard, as well as a determination that it is consistent with all applicable laws.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 13, 2013.

Kara Meckley,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–03777 Filed 2–15–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC503

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings and hearings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold meetings of its Executive and Budget Standing Committee and 156th Council to take actions on fishery management issues in the Western Pacific Region.

DATES: The meetings will be held March 11, 2013 through March 14, 2013. All meetings will be held in Pago Pago, American Samoa. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The Executive and Budget Standing Committee meetings will be held at Sadies by the Sea in Pago Pago, American Samoa. The 156th Council meeting and Fishers Forum will be held at the Governor H. Rex Lee Auditorium (or Fale Laumei), Department of Commerce, Government of American Samoa, Pago Pago, American Samoa; telephone: (684) 633–5155.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The Council's Executive and Budget Standing Committee will meet on March 11, 2013, between 10 a.m. and 12 noon; the 156th Council will meet on March

12–14, 2013. The 156th Council meeting will be held between 8:30 a.m. and 5:30 p.m. on March 12, 2013, between 8:30 a.m. and 5 p.m. on March 13, 2013, and between 8:30 a.m. and 5 p.m. on March 14, 2013. A Fishers Forum will be held in association with the 156th Council Meeting between 6 p.m. and 9 p.m. on March 12, 2013.

In addition to the agenda items listed here, the Council will hear recommendations from Council advisory groups. Public comment periods will be provided throughout the agendas. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

10 a.m.–12 Noon, Monday, March 11, 2013

Executive and Budget Standing Committee Meeting

Schedule and Agenda for 156th Council Meeting

8:30 a.m.–5 p.m., Tuesday, March 12, 2013

1. Opening Ceremony
2. Governor's Remarks
3. Welcome and Introductions
4. Welcoming Remarks
5. National Oceanic and Atmospheric Administration (NOAA) Fisheries Remarks
6. Approval of the 156th Agenda
7. Approval of the 155th Meeting Minutes
8. Executive Director's Report
9. Agency Reports
   A. National Marine Fisheries Service (NMFS)
1. Pacific Islands Regional Office (PIRO)
2. Pacific Islands Fisheries Science Center (PIFSC)
   B. NOAA Office of General Counsel, Pacific Islands Report
   C. NOAA
   D. U.S. Fish and Wildlife Service
   E. Enforcement
1. U.S. Coast Guard
2. NMFS Office for Law Enforcement
3. NOAA General Counsel for Enforcement and Litigation
   F. Public Comment
   G. Council Discussion and Action
10. American Samoa Archipelago
   A. Motu Lipoti
   B. Fono Report
   C. Update on Two-Samoas Initiative
   D. Enforcement Issues
   E. Community Activities and Issues
   1. Update on Community Fisheries Development
   2. Report on Samoa Tuna Packers Cannery Development
   F. Update on American Samoa National Marine Sanctuary
   G. Rose Atoll Marine National Monument
   1. NMFS PIRO/PIFSC Monument Projects
   2. Update on Rose Atoll Marine National Monument
   3. American Samoa Community College Rose Atoll Study
   H. Cook Islands Satellite Fisheries Office
   I. Education and Outreach Initiatives
   J. Coastal Marine Spatial Planning (CMSP) Workshop
   K. Scientific and Statistical Committee (SSC) Recommendations
   L. Public Comments
   M. Council Discussion and Action
11. Public Comment on Non-Agenda Items

Fishers Forum: Coastal and Marine Spatial Planning and Environmental Monitoring for Pago Pago Bay

8:30 a.m.–5 p.m., Wednesday, March 13, 2013

12. Program Planning and Research
   A. Report on Fisheries Data Coord. Committee
   B. Methods for ACL Specifications
   C. Report on the NMFS Science Plan
   D. Marianas Skipjack Resource Assessment
   E. National Ocean Council Governance Coordination Committee
   F. Update on Pacific Islands Regional Planning Body
   G. Education and Outreach
   1. Other Activities
   H. SSC Recommendations
   I. Public Comment
   J. Council Discussion and Action
13. Protected Species
   A. False Killer Whale Assessments: Report of SSC Subcommittee
   B. Update on Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) Actions
   1. Final False Killer Whale Take Reduction Plan
   2. List the Main Hawaiian Islands Insular False Killer Whales as Endangered under the ESA
   3. List 66 Species of Coral as Endangered or Threatened under the ESA
   C. ESA Section 7 Re-consultation of the Hawaii Deep-set Longline Fishery
   D. Update on the Monk Seal Recovery Program
   E. Update on the Council Coordinating Committee/Marine Fisheries Advisory Committee (CCC/MAFAC) ESA Working Group
   F. Update on the Council Sea Turtle Conservation Program
   G. SSC Recommendations
   H. Public Comment
   I. Council Discussion and Action
14. Mariana Archipelago
   A. Island Reports
   1. Arongo Flaeey
   2. Isla Informe
   B. Legislative Report
   1. Commonwealth of the Northern Mariana Islands (CNMI)
   2. Guam
   C. Enforcement Issues
   1. CNMI
   2. Guam
   D. PIRO/PIFSC Marianas Trench Monument Projects
   E. Community Activities and Issues
   F. Education and Outreach Initiatives
   G. Tanapag CMSP Training Workshop Report
   H. SSC Recommendations
   I. Public Comment
   J. Council Discussion and Action

8:30 a.m.–5 p.m., Thursday, March 14, 2013

15. Pelagic & International Fisheries
   A. Action Item
   1. Management Options for American Samoa South Pacific Albacore Fishery
   B. American Samoa and Hawaii Longline Quarterly Reports
   C. Outcomes of the Ninth Regular Session of the Western and Central Pacific Commission (WCPFC 9)
   D. SSC Recommendations
   E. Public Hearing
   F. Council Discussion and Action
16. Hawaii Archipelago and Pacific Remote Islands Areas (PRIAs)
   A. Moku Pepa
   B. Department of Land and Natural Resources (DLNR) Report
   1. Deep Sea to Clouds (fisheries/watershed management)
   2. Enforcement
   3. Legislation
   C. Hawaii Green Sea Turtle Status Review under the ESA
   D. Bottomfish Fishery
   1. Report on State Evaluation of Bottomfish Restricted Areas (BRFAs) through Bottom Camera (BotCam) Research
   2. Report on Main Hawaiian Islands (MHI) Bottomfish Research Coordination Meeting
   E. Community Projects, Activities and Issues
   1. Community Development Program (CDP) Multi-fishery Proposal
   2. Report on Aha Moku Projects
   F. Report on PIRO/PIFSC Northwestern Hawaiian Islands (NWHI) Monument Projects
   G. Education and Outreach Activities
   1. Other Hawaii Outreach Activities
   H. SSC Recommendations
   I. Public Comment

J. Council Discussion and Action
17. Administrative Matters
A. Financial Reports
B. Administrative Reports
C. Department of Commerce Inspector General's (IG) Report on Council Rulemaking Process
D. Marine Fishery Allocation Issues Report
E. Council Family Changes
1. SSC
2. Protected Species Standing Committee
3. Plan Team
4. Noncommercial Advisory Committee
F. Meetings and Workshops
G. Other Business
H. Standing Committee Recommendations
I. Public Comment
J. Council Discussion and Action
18. Other Business

Non-Emergency issues not contained in this agenda may come before the Council for discussion and formal Council action during its 156th meeting. However, Council action on regulatory issues will be restricted to those issues specifically listed in this document and any regulatory issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 12, 2013.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–03665 Filed 2–15–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC504

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Groundfish Oversight Committee will meet jointly with its Groundfish Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Wednesday, March 6, 2013 at 9 a.m.

ADDRESSES: The meeting will be held at the Sheraton Colonial, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300; fax: (781) 245–0842.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Groundfish Committee will hold a joint meeting with the Groundfish Advisory Panel (GAP). The primary purpose of the meeting is to resume work on the development of Amendment 18 to the Northeast Multispecies Fishery Management Plan (A18). A18 is being developed with two broad objectives; (1) to consider the establishment of accumulation caps for the groundfish fishery and; (2) to consider issues associated with fleet diversity in the multispecies fishery. A Notice of Intent to prepare an environmental impact statement (EIS) for this amendment was filed published on December 21, 2011 (76 FR 79153). After completing a scoping period in early summer of 2012, progress on this amendment was delayed while the Council completed other management actions. At this meeting, the Committee and GAP will review scoping comments received, analyses developed by the Plan Development Team (PDT), and other comments. The Committee and GAP will develop a plan to move forward on this amendment. They may also receive an update on a Transboundary Management Guidance Committee (TMGC) meeting that will be held in February and may address other groundfish management priorities for FY 2013, including modifications to rebuilding plans. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 12, 2013.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–03666 Filed 2–15–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0026]

Proposed Collection; Comment Request

AGENCY: DoD, Washington Headquarters Services (WHS), Enterprise Management.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the DoD Washington Headquarters Services, Enterprise Management announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 22, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive,

East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the DoD WHS Enterprise Management, ATTN: Mr. Jeremy Consolvo, 1550 Crystal Drive Arlington VA 22202, or call the DoD WHS Enterprise Management at (703) 697–2224.

Title; Associated Form; and OMB Number: Interactive Customer Evaluation (ICE) System; OMB Number 0704–0420.

Needs and Uses: The Interactive Customer Evaluation (ICE) System automates and minimizes the use of the current manual paper comment cards and other customer satisfaction collection media, which exist at various customer service locations throughout the Department of Defense. Members of the public have the opportunity to give automated feedback to the service provider on the quality of their experience and their satisfaction level. This is a management tool for improving customer services.

Affected Public: Individuals or households; business or other for-profit.

Annual Burden Hours: 2,500.

Number of Respondents: 50,000.

Responses per Respondent: 1.

Average Burden per Response: 3 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Members of the public who respond on the Interactive Customer Evaluation (ICE) system are authorized customers and have been provided a service through DoD customer service organizations. They have the opportunity to give automated feedback to the service provider on the quality of their experience and their satisfaction level. They also have the opportunity to provide any comments that might be beneficial in improving the process and in turn the service to the customer. This is a management tool for improving customer services.

Dated: February 12, 2013.

Aaron Siegel,

Alternate OSD **Federal Register** *Liaison Officer, Department of Defense.*

[FR Doc. 2013–03689 Filed 2–15–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board (RFPB); Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense; Office of the Secretary of Defense, Reserve Forces Policy Board.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces the following Federal advisory committee meeting of the Reserve Forces Policy Board (RFPB) will take place.

DATES: Wednesday, March 6, 2013, from 8:20 a.m. to 3:50 p.m.

ADDRESSES: The address is the Pentagon, Room 3E863, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: CAPT Steven Knight, Designated Federal Officer, (703) 681–0608 (Voice), (703) 681–0002 (Facsimile), *RFPB@osd.mil.* Mailing address is Reserve Forces Policy Board, 5113 Leesburg Pike, Suite 601, Falls Church, VA 22041. Web site: *http://ra.defense.gov/rfpb/.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The purpose of the meeting is to obtain, review and evaluate information related to strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the reserve components.

Agenda: The Reserve Forces Policy Board will hold a meeting from 8:20 a.m. until 3:50 p.m. The portion of the meeting from 8:20 a.m. until 10:20 a.m. will be closed and is not open to the public. The open portion of the meeting will consist of administrative details, remarks from the Reserve Component Senior Enlisted Advisors, a RFPB Cost Methodology Project update, and briefs from the RFPB subcommittees and the Secretary of Defense Strategic Question Task Group. The Senior Enlisted Advisors will offer their thoughts on the following question, ''If you had an opportunity to advise the Secretary of Defense on a DoD-level policy or procedure, what policy or practice would that be and how would you recommend modifying, improving or changing it?'' A status report will be given on the RFPB Cost Methodology Project Report that has been forwarded to the Secretary of Defense. The Secretary of Defense's Strategic Question Task Group will discuss its findings, present relevant facts, and provide for the Board's consideration a report or reports of advice and recommendations for the Secretary of Defense. The closed session of the meeting will consist of remarks from the Commander of U.S. Southern Command, the Commander of U.S. Cyber Command, and the Chief of Staff of the Air Force (CSAF). The Commander, USSOUTHCOM and CSAF have been invited to speak on the best ways to use the Reserves to support the Department's new strategy; the right balance of Active and Reserve Component Forces; and the cost to maintain a strong Reserve Component. Commander, USCYBERCOM, has been invited to discuss his views on the increased emphasis placed on cyber security and the logical mission fit for Reserve Component members.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and the availability of space, the open portion of the meeting is open to the public. To request a seat for the open portion of the meeting, interested persons must email or call the Designated Federal Officer not later than February 27, 2013 as listed in **FOR FURTHER INFORMATION CONTACT.** In accordance with section 10(d) of the FACA, 5 U.S.C. 552b, and 41 CFR 102–3.155, the Department of Defense has determined that the portion of this meeting from 8:20 a.m. until 10:20 a.m. will be closed to the public. Specifically, the Acting Under Secretary of Defense (Personnel and Readiness), with the coordination of the DoD FACA Attorney, has determined in writing that this portion of the meeting will be closed to the public because it will discuss matters covered by 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the FACA, interested persons may submit written statements to the Reserve Forces Policy Board at any time. Written statements should be submitted to the Reserve Forces Policy Board's Designated Federal Officer at the address or facsimile number listed in **FOR FURTHER INFORMATION CONTACT.** If statements pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted

no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the Reserve Forces Policy Board until its next meeting. The Designated Federal Officer will review all timely submitted written statements and provide copies to all the committee members before the meeting that is the subject of this notice.

Dated: February 13, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–03729 Filed 2–15–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability for the Draft Finding of No Significant Impact and Final Programmatic Environmental Assessment for Army 2020 Force Structure Realignment

AGENCY: Department of the Army, DoD.

ACTION: Notice; 30-day extension of comment period.

SUMMARY: The Department of the Army announces a 30-day extension on the public comment period for the draft Finding of No Significant Impact (FNSI) and final Programmatic Environmental Assessment (PEA) for Army 2020 force structure realignments that may occur from Fiscal Years (FYs) 2013–2020. The Army published the Notice of Availability of the draft FNSI and PEA in the **Federal Register** (78 FR 4134) on January 18, 2013. The comment period, originally set to end on February 19, 2013, is being extended by 30 days. The comment period will now run through March 21, 2013. An electronic version of the PEA and draft FNSI is available for download at: *http://aec.army.mil/usaec/nepa/topics00.html.*

ADDRESSES: Written comments should be sent to: Public Comments USAEC, Attention: IMPA–AE (Army 2020 PEA), 2450 Connell Road (Bldg. 2264), Fort Sam Houston, Texas 78234–7664; or by email to *USARMY.JBSA.AEC.MBX@mail.mil.*

FOR FURTHER INFORMATION CONTACT: (210) 466–1590 or email: *USARMY.JBSA.AEC.MBX@mail.mil.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2013–03750 Filed 2–15–13; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for Land Acquisition and Airspace Establishment To Support Large-Scale Marine Air Ground Task Force Live-Fire and Maneuver Training at the Marine Corps Air Ground Combat Center, Twentynine Palms, CA

AGENCY: Department of the Navy, DoD.

ACTION: Notice of Record of Decision.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, 42 United States Code 4321–4370h, as implemented by the Council on Environmental Quality regulations, 40 Code of Federal Regulations (CFR) parts 1500–1508, the Department of Navy (DoN) NEPA regulations (32 CFR part 775), and Marine Corps Order P5090.2A (with Changes 1, 2) Marine Corps Environmental Compliance and Protection Manual, Chapter 12, the DoN, after carefully weighing the operational and environmental consequences of the proposed action in an Environmental Impact Statement (EIS), announces its decision to establish a large-scale Marine Air Ground Task Force (MAGTF) training facility at the Marine Corps Air Ground Combat Center in Twentynine Palms, California (''the Combat Center'') to accommodate a required new program of sustained, combined-arms, live-fire, and maneuver training for all elements of a Marine Expeditionary Brigade (MEB)-sized MAGTF, including full-scale MEB Exercises and associated MEB Building Block training. To accommodate the required MEB training activities, DoN, acting through the Combat Center, will: Purchase additional private and state lands adjacent to the Combat Center; request withdrawal by Act of Congress of additional public lands adjacent to the Combat Center; pursue through the Federal Aviation Administration the establishment and modification of military Special Use Airspace for proposed MEB-sized training range; and conduct the specified MEB training. Land withdrawal of more than 5,000 acres for the purposes of national defense may only be made by an Act of Congress. The DoN has selected Alternative 6, the Preferred Alternative, (with additional mitigation developed in consultation with the Bureau of Land Management [BLM]), for implementation and recommendation to Congress. Alternative 6 includes the withdrawal of public land and purchase of private and state lands collectively totaling approximately 167,971 acres west and south of the existing Combat Center. All practical means to avoid or minimize environmental harm from the Preferred Alternative that were identified in the Final EIS have been adopted.

SUPPLEMENTARY INFORMATION: The complete text of the Record of Decision is available for public viewing on the project Web site at *www.29palms.marines.mil/Staff/G4InstallationsandLogistics/LandAcquisition.aspx* along with the EIS. For further information, contact the 29Palms Land Acquisition/Airspace Establishment Project Manager, Marine Air Ground Task Force Training Command, Marine Corps Air Ground Combat Center, Bldg. 1554, Box 788104, Twentynine Palms, CA 92278–8104. Telephone: 760 830–3764.

Dated: February 12, 2013.

C.K. Chiappetta,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2013–03692 Filed 2–15–13; 8:45 am]

BILLING CODE 3810–FF–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meeting Notice

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUCEMENT: 78 FR 4393, January 22, 2013.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING AND HEARING: Session I: 1:00 p.m.–5:30 p.m., March 14, 2013; Session II: 7:00 p.m.–9:00 p.m., March 14, 2013.

CHANGES TO OPEN MEETING AND HEARING: The Defense Nuclear Facilities Safety Board (Board) published a notice in the **Federal Register** of January 22, 2013, (78 FR 4393), concerning a two-session public meeting and hearing on March 14, 2013, at the Amarillo Civic Center, 401 S. Buchanan Street, Amarillo, Texas 79101. The Board changes that notice as follows: (1) Session I will end at 5:00 p.m. instead of 5:30 p.m.; (2) Session II will start at 6:30 p.m. instead of 7:00 p.m.; (3) the topic of safety culture at the Pantex Plant in Session I will also include testimony from the Department of Energy, Office of Health, Safety and Security, in addition to testimony from the National Nuclear Security Administration and its contractor organization; and (4) the topic of emergency preparedness at the Pantex Plant, to include plans and capabilities to respond to a site emergency, demonstrated performance in drills and exercises, and preparation for severe

events resulting from natural phenomena such as earthquakes, fires and tornados, has been moved from the end of Session I to the beginning of Session II. The date and place of the meeting and hearing remain unchanged.

CONTACT PERSON FOR MORE INFORMATION: Marcelyn Atwood, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

Dated: February 13, 2013.

Peter S. Winokur,

Chairman.

[FR Doc. 2013–03796 Filed 2–14–13; 4:15 pm]

BILLING CODE 3670–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–336–A]

Application To Export Electric Energy; ConocoPhillips Company

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Application.

SUMMARY: ConocoPhillips Company (CoP) has applied to renew its authority to transmit electric energy from the United States to Mexico pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before March 21, 2013.

ADDRESSES: Comments, protests, or motions to intervene should be addressed to: Lamont Jackson, Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Lamont.Jackson@hq.doe.gov,* or by facsimile to 202–586–8008.

FOR FURTHER INFORMATION CONTACT: Lamont Jackson (Program Office) at 202–586–0808, or by email to *Lamont.Jackson@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On April 17, 2008, DOE issued Order No. EA–336, which authorized CoP to transmit electric energy from the United States to Mexico as a power marketer for a five-year term using existing international transmission facilities. That authority expires on April 17, 2013. On November 29, 2012, CoP filed an application with DOE for renewal of the export authority contained in Order No. EA–336 for an additional five-year term.

In its application, CoP states that neither it nor any of its affiliates currently own or control electric generating or transmission facilities except for those facilities necessary to connect generation facilities to the transmission grid. CoP states that all of the electric energy that CoP proposes to export to Mexico will be surplus to the needs of the selling entities. The existing international transmission facilities to be utilized by CoP have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments on the CoP application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–336–A. An additional copy is to be provided directly to both Casey P. McFaden and Charles F. Eisenhardt, ConocoPhillips Company, 600 North Dairy Ashford, Houston, TX 77079. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on February 11, 2013.

Brian Mills,

Director of Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2013–03714 Filed 2–15–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–553–000.
Applicants: TC Offshore LLC.
Description: Service Agmt—Housekeeping to be effective 3/14/2013.
Filed Date: 2/11/13.
Accession Number: 20130211–5070.
Comments Due: 5 p.m. ET 2/25/13.

Docket Numbers: RP13–554–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 02/11/13 Negatiated Rates—JP Morgan Ventures Corp (HUB)—6025–89 to be effective 2/9/2013.
Filed Date: 2/11/13.
Accession Number: 20130211–5128.
Comments Due: 5 p.m. ET 2/25/13.

Docket Numbers: RP13–555–000.
Applicants: Northwest Pipeline GP.
Description: Housekeeping Filing—CSOFO to be effective 4/1/2013.
Filed Date: 2/11/13.
Accession Number: 20130211–5175.
Comments Due: 5 p.m. ET 2/25/13.

Docket Numbers: RP13–556–000.
Applicants: Gulf Shore Energy Partners, LP.
Description: Gulf Shore Energy Partners, LP GAS TARIFF ORIGINAL VOLUME NO. 1 Baseline Filing to be effective 3/13/2013.
Filed Date: 2/11/13.
Accession Number: 20130211–5190.
Comments Due: 5 p.m. ET 2/25/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 12, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–03710 Filed 2–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–72–000.

Applicants: Alcoa Power Generating Inc.

Description: Application for Authorization under Section 203 of the Federal Power Act and Request for Waivers of Alcoa Power Generating Inc.

Filed Date: 2/7/13.

Accession Number: 20130207–5142.

Comments Due: 5 p.m. ET 2/28/13.

Docket Numbers: EC13–73–000.

Applicants: Twin Cities Power, LLC.

Description: Application for Authorization under Section 203 of Twin Cities Power, LLC.

Filed Date: 2/8/13.

Accession Number: 20130208–5080.

Comments Due: 5 p.m. ET 3/1/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–301–002.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.17(b): Errata Filing—Docket ER13–301–001—MKEC Formula Rate Revisions to be effective 1/1/2013.

Filed Date: 2/7/13.

Accession Number: 20130207–5115.

Comments Due: 5 p.m. ET 2/28/13.

Docket Numbers: ER13–323–001.

Applicants: ISO New England Inc.

Description: ISO New England Inc. submits tariff filing per 35: Correct Defined Term in Generator Audit Revisions to be effective 12/31/9998.

Filed Date: 2/8/13.

Accession Number: 20130208–5040.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–629–001.

Applicants: Public Service Company of Colorado.

Description: Public Service Company of Colorado submits tariff filing per 35.17(b): 2013_02_07_BNGR Amnd T–L Agrmt-542 to be effective 1/1/2013.

Filed Date: 2/8/13.

Accession Number: 20130208–5002.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–663–001.

Applicants: Public Service Company of Colorado.

Description: Public Service Company of Colorado submits tariff filing per 35.17(b): 2013_02_07_MDEU Amnd T–L Agrmt-541 to be effective 1/1/2013.

Filed Date: 2/8/13.

Accession Number: 20130208–5001.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–666–001.

Applicants: Public Service Company of Colorado.

Description: Public Service Company of Colorado submits tariff filing per 35.17(b): 2013_02_07_SPNR Amnd T–L Agrmt-548 to be effective 1/1/2013.

Filed Date: 2/8/13.

Accession Number: 20130208–5003.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–898–000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits tariff filing per 35.13(a)(2)(iii: Amendment to BART NITSA (Richmond Garage) to be effective 4/9/2013.

Filed Date: 2/7/13.

Accession Number: 20130207–5120.

Comments Due: 5 p.m. ET 2/28/13.

Docket Numbers: ER13–899–000.

Applicants: Abest Power & Gas, LLC.

Description: Abest Power & Gas, LLC submits tariff filing per 35.12: Application for Market-Based Rate Authority to be effective 3/8/2013.

Filed Date: 2/7/13.

Accession Number: 20130207–5121.

Comments Due: 5 p.m. ET 2/28/13.

Docket Numbers: ER13–901–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.15: Notices of Cancellation of SGIA & DSA Randolph Roof Top Solar Project with ASIT to be effective 10/22/2012.

Filed Date: 2/8/13.

Accession Number: 20130208–5000.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–902–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2013–02–08 Schedule 31 Annual Update to be effective 4/9/2013.

Date: 2/8/13.

Accession Number: 20130208–5016.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–903–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2013–02–08 UDS–SCADA Filing 40.2.14 to be effective 4/9/2013.

Filed Date: 2/8/13.

Accession Number: 20130208–5017.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–904–000.

Applicants: Wabash Valley Power Association, Inc.

Description: Wabash Valley Power Association, Inc. submits tariff filing per 35.13(a)(2)(iii: Amendments to Rate Schedules to be effective 4/9/2013.

Filed Date: 2/8/13.

Accession Number: 20130208–5031.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–905–000.

Applicants: Green Mountain Power Corporation, ISO New England Inc.

Description: Green Mountain Power Corporation submits tariff filing per 35.13(a)(2)(iii: Green Mtn. Power, ISO–NE and Woodsvie LSA to be effective 4/26/2011.

Filed Date: 2/8/13.

Accession Number: 20130208–5038.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–906–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.15: Notice of Cancellation to Mojave Solar Letter Agreement to be effective 12/10/2012.

Filed Date: 2/8/13.

Accession Number: 20130208–5041.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–907–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: Letter Agreement Mojave Solar 4 Project to be effective 1/11/2013.

Filed Date: 2/8/13.

Accession Number: 20130208–5042.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–908–000.

Applicants: Alabama Power Company.

Description: Alabama Power Company submits tariff filing per 35: OATT Order No. 1000 Compliance Filing—FILING SUBMITTED UNDER PROTEST to be effective 12/31/9998.

Filed Date: 2/8/13.

Accession Number: 20130208–5087.

Comments Due: 5 p.m. ET 3/25/13.

Docket Numbers: ER13–909–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: NYISO tariff amendments to revise energy price calculations in scarcity periods to be effective 12/31/9998.

Filed Date: 2/8/13.

Accession Number: 20130208–5113.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–910–000.

Applicants: American Transmission Systems Incorporated, PJM Interconnection, L.L.C.

Description: American Transmission Systems, Incorporated submits tariff filing per 35.13(a)(2)(iii: CEI (ATSI) submits SA Nos. 3501 & 3502–IA & CA among CEI and WM Renewable Energy to be effective 1/9/2013.

Filed Date: 2/8/13.

Accession Number: 20130208–5117.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–911–000.

Applicants: Smoky Mountain Transmission LLC.

Description: Smoky Mountain Transmission LLC submits Request for Waiver of Order No. 1000 Transmission Planning Requirements.

Filed Date: 2/8/13.

Accession Number: 20130208–5121.

Comments Due: 5 p.m. ET 3/1/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 08, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–03646 Filed 2–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–67–000.

Applicants: Wildcat Wind Farm I, LLC.

Description: Wildcat Wind Farm I, LLC withdraws request for confidential treatment of the investor identity, Antrim Corporation.

Filed Date: 2/11/13.

Accession Number: 20130211–5132.

Comments Due: 5 p.m. ET 2/21/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–916–000.

Applicants: Public Service Company of New Mexico.

Description: PNM filing of Revised Attachment EIP to be effective 1/16/2013.

Filed Date: 2/11/13.

Accession Number: 20130211–5077.

Comments Due: 5 p.m. ET 3/4/13.

Docket Numbers: ER13–917–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits notice of cancellation of Wholesale Market Participant Service Agreement No. 2445.

Filed Date: 2/11/13.

Accession Number: 20130211–5095.

Comments Due: 5 p.m. ET 3/4/13.

Docket Numbers: ER13–918–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits notice of cancellation of Wholesale Market Participant Service Agreement No. 2446.

Filed Date: 2/11/13.

Accession Number: 20130211–5099.

Comments Due: 5 p.m. ET 3/4/13.

Docket Numbers: ER13–919–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Revisions to the ''OATT'' and TOA re HTP Facilities to be effective 4/12/2013.

Filed Date: 2/11/13.

Accession Number: 20130211–5154.

Comments Due: 5 p.m. ET 3/4/13.

Docket Numbers: ER13–920–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Revisions to the OATT and ''TOA'' re HTP Facilities to be effective 4/12/2013.

Filed Date: 2/11/13.

Accession Number: 20130211–5158.

Comments Due: 5 p.m. ET 3/4/13.

Docket Numbers: ER13–921–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2013–11–02 Schd 28 ORDC Filing to be effective 5/1/2013.

Filed Date: 2/11/13.

Accession Number: 20130211–5177.

Comments Due: 5 p.m. ET 3/4/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 11, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–03712 Filed 2–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–71–000.

Applicants: KEF Equity Investment Corp.

Description: Application of KEF Equity Investment Corp. for Authorization of Disposition of Jurisdictional Facilities Under Section 203 of the Federal Power Act, Request for Expedited Consideration, Waivers and Confidential Treatment.

Filed Date: 2/6/13.

Accession Number: 20130206–5103.

Comments Due: 5 p.m. ET 2/27/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–675–001.

Applicants: Catalina Solar, LLC.

Description: Amendment to MBR Compliance Filing to Update Citation to be effective 11/15/2012.

Filed Date: 2/6/13.

Accession Number: 20130206–5096.

Comments Due: 5 p.m. ET 2/27/13.

Docket Numbers: ER13–677–001.

Applicants: Shiloh IV Lessee, LLC.

Description: Shiloh IV Lessee, LLC submits Amendment to MBR Compliance Filing to Update Citation to be effective 12/15/2012.

Filed Date: 2/6/13.

Accession Number: 20130206–5097.

Comments Due: 5 p.m. ET 2/27/13.

Docket Numbers: ER13–894–000.

Applicants: Puget Sound Energy, Inc.

Description: Puget Sound Energy, Inc. submits Compliance Filing In Docket No. ER11–3735 to be effective 1/5/2012.

Filed Date: 2/6/13.

Accession Number: 20130206–5098.

Comments Due: 5 p.m. ET 2/27/13.

Docket Numbers: ER13–895–000.

Applicants: New England Power Pool Participants Committee, ISO New England Inc.

Description: New England Power Pool Participants Committee submits tariff filing per 35.13(a)(2)(iii: Mkt Rule Chges to Modify DA Energy Market Schedule to be effective 12/31/9998.

Filed Date: 2/7/13.

Accession Number: 20130207–5081

Comments Due: 5 p.m. ET 2/28/13.

Docket Numbers: ER13–896–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 02–07–2013 Sch 7 8 9 CIPCO to be effective 12/31/9998.

Filed Date: 2/7/13.

Accession Number: 20130207–5091.

Comments Due: 5 p.m. ET 2/28/13.

Docket Numbers: ER13–897–000.

Applicants: Louisville Gas and Electric Company.

Description: Louisville Gas and Electric Company submits tariff filing per 35: OATT Order No. 1000. Compliance Filing to be effective 12/31/9998.

Filed Date: 2/7/13.

Accession Number: 20130207–5092.

Comments Due: 5 p.m. ET 2/28/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 07, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–03645 Filed 2–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–551–000.

Applicants: Northern Border Pipeline Company.

Description: Update Contract Quantities to be effective 1/1/2013.

Filed Date: 2/8/13.

Accession Number: 20130208–5114.

Comments Due: 5 p.m. ET 2/20/13.

Docket Numbers: RP13–552–000.

Applicants: Natural Gas Pipeline Company of America.

Description: Nicor Gas Neg Filing to be effective 2/8/2013.

Filed Date: 2/8/13.

Accession Number: 20130208–5130.

Comments Due: 5 p.m. ET 2/20/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 11, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–03644 Filed 2–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–74–000.

Applicants: Pasco Cogen, Ltd., Lake Investment, LP, NCP Lake Power, LLC, Teton New Lake, LLC, Auburndale LP, LLC, Auburndale GP, LLC, Dade Investment, LP, NCP Dade Power, LLC.

Description: Application for Approval under Section 203 of the Federal Power Act and Requests for Expedited Consideration and Confidential Treatment of Pasco Cogen, Ltd., et al.

Filed Date: 2/8/13.

Accession Number: 20130208–5162.

Comments Due: 5 p.m. ET 3/1/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–692–002.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.17(b): 2012–02–08_OASIS Replacement_2 to be effective 4/15/2013.

Filed Date: 2/8/13.

Accession Number: 20130208–5161.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–912–000.

Applicants: Southwest Power Pool, Inc.

Description: 2522 Tres Amigas Interconnection Agreement to be effective 1/25/2013.

Filed Date: 2/8/13.

Accession Number: 20130208–5131.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–913–000.

Applicants: Ohio Valley Electric Corporation.

Description: OATT Order No. 1000. Compliance Filing to be effective 12/31/9998.

Filed Date: 2/8/13.

Accession Number: 20130208–5137.

Comments Due: 5 p.m. ET 3/25/13.

Docket Numbers: ER13–914–000.

Applicants: Green Mountain Power Corporation.

Description: Green Mountain Power filing of Rate Schedule No. 73 to be effective 2/8/2013.

Filed Date: 2/8/13.

Accession Number: 20130208–5149.

Comments Due: 5 p.m. ET 3/1/13.

Docket Numbers: ER13–915–000.

Applicants: Pinpoint Power, LLC.

Description: Pinpoint Power, LLC submits Pinpoint Cancellation to be effective 4/9/2013.

Filed Date: 2/8/13.

Accession Number: 20130208–5160.

Comments Due: 5 p.m. ET 3/1/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 11, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–03711 Filed 2–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–3–000]

Tennessee Gas Pipeline Company, L.L.C.; Notice of Availability of the Environmental Assessment for the Proposed Rose Lake Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Rose Lake Expansion Project, proposed by Tennessee Gas Pipeline Company, L.L.C. (TGP) in the above-referenced docket. TGP requests authorization to construct compressor facilities in Tioga and Bradford Counties, Pennsylvania to provide up to 230,000 dekatherms per day of natural gas delivery capacity to the northeast region.

The EA assesses the potential environmental effects of the construction and operation of the Rose Lake Expansion Project in accordance with the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed Rose Lake Expansion Project includes the following modifications at three existing compressor stations along TGP's 300 Line:

- Installing a 12,630-horsepower (hp) turbine-compressor package at Compressor Station 315 near Wellsboro, Tioga County;
- Abandoning by removal an existing compressor and replacing it with a new compressor at Compressor Station 317 near Troy, Bradford County;
- Abandoning in place two existing 4,500-hp compressor units and replacing them with a new 16,000-hp turbine-compressor package at Compressor Station 319 near Wyalusing, Bradford County; and
- Installing ancillary equipment and piping modifications at Compressor Stations 315, 317, and 319.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding.

In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before March 14, 2013.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP13–3–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *''eRegister.''* You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (i.e., CP13–3).

[1] See the previous discussion on the methods for filing comments.

Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm.*

Dated: February 12, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–03699 Filed 2–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. PR13–26–000; PR13–29–000; PR13–30–000]

Michigan Consolidated Gas Company, DTE Gas Company, DTE Gas Company; Notice of Petition

Take notice that on January 28, 2013, in Docket No. PR13–26–000, and February 1, 2013, in Docket Nos. PR13–29–000, and PR13–30–000 (not consolidated), Michigan Consolidated Gas Company (MichCon) and DTE Gas Company (DTE Gas) filed to institute a name change to both itself from MichCon to DTE Gas and to its Tariff Title, and to elect its recently effective transportation rates recently approved by Michigan Public Service Commission. DTE Gas filed (1) in Docket No. PR13–29–000 a new baseline filing of their Statement of Operating Conditions (SOC) for services pursuant to its Order No. 63 limited blanket certificate, incorporating a new Tariff Title and (2) in Docket PR13–26–000 to cancel its current SOC. On February 1, 2013, in Docket No. PR13–30–000 DTE Gas filed to revise its new SOC to reflect the recent corporate name change from MichCon to DTE Gas, and pursuant to section 284.123 of the Commissions regulations, a petition for rate approval to elect its recently effective transportation rates on file with the Michigan Public Service Commission, as more fully detailed in the filing.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, February 20, 2013.

Dated: February 11, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–03702 Filed 2–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR13–27–000]

NorthWestern Corporation; Notice of Petition for Rate Approval

Take notice that on January 31, 2013, NorthWestern Corporation (NorthWestern) filed a Rate Election pursuant to 284.123(b)(1) of the Commissions regulations proposing to utilize rates that are the same as those contained in NorthWestern's storage and transportation rate schedules for comparable intrastate service on file with the Montana Public Service Commission, as more fully detailed in the petition.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, February 20, 2013.

Dated: February 11, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–03703 Filed 2–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR13–31–000]

Houston Pipe Line Company LP; Notice of Petition for Rate Approval

Take notice that on February 1, 2013, Houston Pipe Line Company LP (HPL) filed for approval of rates for transportation service pursuant to section 284.123(b)(2) of the Commission's regulations and to make minor administrative modifications to its statement of Operating Conditions, more fully detailed in the petition.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, February 20, 2013.

Dated: February 11, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–03698 Filed 2–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR13–28–000]

Public Service Company of Colorado; Notice of Petition for Rate Approval

Take notice that on January 31, 2013, Public Service Company of Colorado (PSCo) filed a Rate Election pursuant to 284.123(b)(1) of the Commissions regulations proposing to utilize rates that are the same as those contained in PSCo's transportation rate schedules for comparable intrastate service on file with the Colorado Public Utilities Commission, as more fully detailed in the petition.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, February 20, 2013.

Dated: February 11, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–03700 Filed 2–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–61–000]

Dominion Transmission, Inc.; Notice of Request Under Blanket Authorization

Take notice that on January 29, 2013, Dominion Transmission, Inc. (Dominion), 701 East Cary Street, Richmond, Virginia 23219, filed in Docket No. CP13–61–000, an application pursuant to sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (NGA) as amended, to plug and abandon two storage wells and their associated pipelines in Westmoreland County, Pennsylvania, under Dominion's blanket certificate issued in Docket No. CP82–537–000,[1] all as more fully set forth in the application which is on file with the Commission and open to the public for inspection.

Dominion proposes to abandon and plug wells JW–451F and JW–454F and their associated pipelines located near the Murrysville Pool of the Oakford Storage Complex. Dominion states that it owns the Oakford Storage Complex jointly and equally as tenants in common with Texas Eastern Transmission, LP. Dominion also states that as the operator of the Oakford Storage Complex, that it has filed this proposal on behalf of both parties with the Commission. Dominion further states that the certificated physical parameters, including total natural gas inventory, reservoir pressure, reservoir and buffer boundaries, and the certificated capacity of the Oakford Storage Complex would remain unchanged with the abandonment and plugging of the two wells. Dominion asserts that the proposed abandonment would not have any adverse effect on existing customers, existing pipelines, landowners, or communities, and would not result in any financial subsidization from existing customers. Dominion

[1] 21 FERC ¶ 62,172 (1982).

estimates that it would cost $1,479,000 to replicate the two wells and their associated pipelines.

Any questions concerning this application may be directed to Amanda K. Prestage, Regulatory and Certificates Analyst, Dominion Transmission, Inc., 701 East Cary Street, Richmond, Virginia 23219, telephone (804) 771–4416, facsimile (804) 771–4804, or Email: *Amanda.K.Prestage@dom.com.*

This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, please contact FERC Online Support at FERC *OnlineSupport@ferc.gov* or call toll-free at (866) 206–3676, or, for TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages intervenors to file electronically.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Dated: February 11, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–03701 Filed 2–15–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0039; FRL 9526–5]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Reporting and Recordkeeping Requirements of the HCFC Allowance System (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before March 21, 2013.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2003–0039 to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Docket: EPA–HQ–OAR–2003–0039, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert Burchard, Stratospheric Protection Division, Office of Atmospheric Programs, 6205J, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9126; fax number: (202) 343–2338; email address: *burchard.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 10, 2012 (77 FR 55470), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2003–0039, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742.

Use EPA's electronic docket and comment system at *www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Reporting and Recordkeeping Requirements of the HCFC Allowance System (Renewal).

ICR numbers: EPA ICR No. 2014.04, OMB Control No. 2060–0498.

ICR Status: This ICR is scheduled to expire on 2/28/2013. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The international treaty *The Montreal Protocol on Substances That Deplete the Ozone Layer* (Protocol) and Title VI of the Clean Air Act Amendments (CAAA) established limits on total U.S. production, import, and export of class I and class II controlled ozone depleting substances. Under its

Protocol commitments, the United States was obligated to cease production and import of class I controlled substances (e.g., chlorofluorocarbons or CFCs) with exemptions for essential uses, critical uses, previously-used material, and material that is transformed, destroyed, or exported to developing countries. The Protocol also establishes limits and reduction schedules leading to the eventual phaseout of class II controlled substances (i.e., hydrochlorofluorocarbons or HCFCs).

The U.S. is obligated to limit HCFC consumption (defined by the Protocol as production plus imports, minus exports). The schedule called for a 35 percent reduction on January 1, 2004, followed by a 75 percent reduction on January 1, 2010, a 90 percent reduction on January 1, 2015, a 99.5 percent reduction on January 1, 2020, and a total phaseout on January 1, 2030. The U.S. Environmental Protection Agency (EPA) is responsible for administering the phaseout.

To ensure U.S. compliance with these limits and restrictions, EPA established an allowance system to control U.S. production and import of HCFCs by granting control measures referred to as baseline and calendar-year allowances. Baseline allowances are based on the historical activity of individual companies. Calendar-year allowances allow holders to produce and/or import controlled substances in a given year and are allocated as a percentage of baseline. There are two types of baseline and calendar-year allowances: Consumption and production allowances. Since each allowance is equal to 1 kilogram of HCFC, EPA is able to monitor the quantity of HCFCs being produced, imported and exported. Transfers of production and consumption allowances among producers and importers are allowed and are tracked by EPA.

The above-described limits and restrictions are monitored by EPA through the requirements established in the regulations in 40 CFR part 82, subpart A. To submit required information, regulated entities can download reporting forms from EPA's Web site (*http://www.epa.gov/ozone/record*), complete them, and send them to EPA electronically, via mail, courier, or fax. Almost all of the large regulated companies use the EPA reporting forms.

Upon receipt of the reports, the data is entered into the Ozone Depleting Substances (ODS) Tracking System. The ODS Tracking System is a secure database that maintains the data submitted to EPA and helps the agency: (1) Maintain oversight over total production and consumption of controlled substances; (2) monitor compliance with limits and restrictions on production, imports, and trades and specific exemptions from the phaseout for individual U.S. companies; and (3) assess, and report on, compliance with the U.S. obligations under the Montreal Protocol.

EPA has implemented an electronic reporting system that allows regulated entities to prepare and submit data electronically. Coupled with the widespread use of the standardized forms, electronic reporting has improved data quality and made the reporting process efficient for both reporting companies and EPA. Most reporting is done electronically.

Pursuant to regulations in 40 CFR part 2, subpart B, reporting businesses are entitled to assert a business confidentiality claim covering any part of the submitted business information as defined in 40 CFR 2.201(c). EPA's practice is to manage the reported information as confidential business information.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Companies that produce, import, and export class II controlled ozone depleting substances.

Estimated Number of Respondents: 49.

Frequency of Response: Annually, quarterly, occasionally.

Estimated Total Annual Hour Burden: 1,601 hours.

Estimated Total Annual Cost: $161,793, includes $1,365 in O&M costs.

Changes in the Estimates: There is a decrease of 259 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease reflects the expansion of the electronic reporting program.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–03748 Filed 2–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2004–0008; FRL–9528–3]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Consolidated Superfund Information Collection Request (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Consolidated Superfund Information Collection Request (Renewal)'' (EPA ICR No. 1487.11, OMB Control No. 2050–0179) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through February 28, 2013. It is also a proposed consolidation of three ICR's into one. EPA ICR's No. 1488.08, OMB Control No. 2050–0095 ''Superfund Site Evaluation and Hazard Ranking System (Renewal)'' and ICR No. 1463.09, OMB Control No. 2050–0096 ''National Oil and Hazardous Substance Pollution Contingency Plan (NCP) (Renewal)'' are being consolidated into EPA ICR No. 1487.11, OMB Control No. 2050–0179 ''Consolidated Superfund Information Collection Request (Renewal).'' Public comments were previously requested via the **Federal Register** (77 FR 47835) on August 10, 2012 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before March 21, 2013.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–SFUND–2004–0008, to (1) EPA online using *www.regulations.gov* (our

preferred method), by email to *superfund.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Laura Knudsen, Office of Solid Waste and Emergency Response, Assessment and Remediation Division, (5204P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–603–8861; fax number: 703–603–9102; email address: *knudsen.laura@@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *www.epa.gov/dockets.*

Superfund Site Evaluation and Hazard Ranking System (HRS) ICR

Abstract: The Hazard Ranking System (HRS) is a model that is used to evaluate the relative threats to human health and the environment posed by actual or potential releases of hazardous substances, pollutants, and contaminants.

EPA regional offices work with states to determine those sites for which the state will conduct the Superfund site evaluation activities and the HRS scoring. The states are reimbursed 100 percent of their costs, except for record maintenance.

Under this ICR, the states will apply the HRS by identifying and classifying those releases or sites that warrant further investigation. The HRS score is crucial since it is the primary mechanism used to determine whether a site is eligible to be included on the National Priorities List (NPL). Only sites on the NPL are eligible for Superfund-financed remedial actions. HRS scores are derived from the sources described in this information collection, including conducting field reconnaissance, taking samples at the site, and reviewing available reports and documents. States record the collected information on HRS documentation worksheets and include this in the supporting reference package.

National Oil and Hazardous Substances Pollution Contingency Plan (NCP) ICR

Abstract: All remedial actions covered by this ICR (*e.g.,* Remedial Investigations/Feasibility Studies) are stipulated in the statute (CERCLA) and are instrumental in the process of cleaning up National Priorities List (NPL) sites to be protective of human health and the environment. Some community involvement activities covered by this ICR are not required at every site (*e.g.,* Technical Assistance Grants) and depend very much on the community and the nature of the site and cleanup. All community activities seek to involve the public in the cleanup of the sites, gain the input of community members and include the community's perspective on the potential future reuse of the Superfund NPL sites. Community Involvement activities can enhance the remedial process and increase community acceptance and the potential for productive and useful reuse of the sites.

The respondents on whom a burden is placed include state and tribal governments and communities. Potentially Responsible Parties (PRPs) are not addressed in this ICR because the Paperwork Reduction Act does not require the inclusion of those entities that are the subject of administrative or civil action by the Agency. The ICR reports the estimated reporting and recordkeeping burden hours and costs expected to be incurred by these entities and by the Federal government in its oversight capacities of state action and administration of community activities at Fund-lead NPL sites. Remedial activities undertaken by states at NPL sites are those required and recommended by CERCLA and the NCP and the cost of many of these activities may be reimbursed by the Federal government. All community involvement in the remedial process of Superfund is voluntary. Therefore, all cost estimates for community members is theoretical and does not represent expenditure of actual dollars.

States have responsibilities at new and ongoing state-lead sites and at all state-lead, Federal-lead and Federal Facility sites entering the remedial phase of Superfund. All other remedial activities taken by the state are done so at sites which the state voluntarily assumes the lead agency role. Over each year of this ICR, the state will be completing remedial activities at sites that entered the remedial phase of Superfund at different times.

Cooperative Agreements and Superfund State Contracts for Superfund Response Actions (SRA) ICR

Abstract: This ICR authorizes the collection of information under 40 CFR part 35, subpart O, which establishes the administrative requirements for cooperative agreements funded under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for State, federally-recognized Indian tribal governments, and political subdivision response actions. This regulation also codifies the administrative requirements for Superfund State Contracts for non-State lead remedial responses. This regulation includes only those provisions mandated by CERCLA, required by OMB Circulars, or added by EPA to ensure sound and effective financial assistance management under this regulation. The information is collected from applicants and/or recipients of EPA assistance and is used to make awards, pay recipients, and collect information on how federal funds are being utilized. EPA requires this information to meet its federal stewardship responsibilities. Recipient responses are required to obtain a benefit (federal funds) under 40 CFR part 31, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments'' and under 40 CFR part 35, ''State and Local Assistance.'' An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Form Numbers: None of the ICR's have forms.

Respondents/affected entities: State, Local or Tribal Governments; Communities; US Territories.

Respondent's obligation to respond: Required to obtain benefits, Mandatory, Voluntary.

Estimated number of respondents: 12,131

Frequency of response: On occasion, Once.

Total estimated burden: 308,458 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $481,661.59 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 304,269 hours primarily due the consolidation of three ICRs into one (OMB numbers 2050–0179, 2050–0095 and 2050–0096).

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–03741 Filed 2–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0680; FRL–9528–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Emission Guidelines and Compliance Times for Existing Municipal Solid Waste Landfills (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 21, 2013.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2012–0680, to: (1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 17, 2012 (77 FR 63813), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2012–0680, which is available for either public viewing online at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidentiality of Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: Emission Guidelines and Compliance Times for Existing Municipal Solid Waste Landfills (Renewal).

ICR Numbers: EPA ICR Number 1893.06, OMB Control Number 2060–0430.

ICR Status: This ICR is scheduled to expire on March 31, 2013. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the Emission Guidelines at 40 CFR part 60, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 60, subpart Cc and part 62, Subpart GGG.

Owners or operators of the affected facilities must submit periodic reports and results. Owners or operators are also required to maintain records of control system monitoring, accumulated refuse, surface methane monitoring, and collection and control system exceedances.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 15 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are the owners or operators of municipal solid waste landfills.

Estimated Number of Respondents: 511.

Frequency of Response: Monthly, Quarterly, and Annually.

Estimated Total Annual Hour Burden: 42,277.

Estimated Total Annual Cost: $4,717,854, which includes $4,054,254 in labor costs, no capital/startup costs, and $663,600 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is a net decrease in the total burden associated with both privately- and publicly-owned landfills. This decrease is due to an adjustment to the estimated average number of respondents. To account for landfill closures that have occurred since the previous ICR was approved, this ICR applies a three-percent per year landfill closure rate to the previous ICR's estimated number of respondents. This adjustment decreased the total burden hours associated with privately- and publicly-owned landfills. There is an increase in burden cost from the most recently approved ICR. This is

due to the fact that this ICR uses updated labor rates from the Bureau of Labor Statistics to calculate respondent burden costs.

There is an increase in the respondent burden and cost associated with State and local agencies. This increase is due to an adjustment in the labor burden calculations. The previous ICR assumed that, for each burden item, person-hours per occurrence included technical, managerial, and clerical labor hours. To be consistent with the estimation methodology used in other ICRs, this ICR assumes that person-hours per occurrence includes technical labor only, and that managerial and clerical hours account for an additional 5 and 10 percent, respectively, of technical labor hours. This adjustment increased the State and local agency burden hours and costs.

There is a decrease in the Federal Agency burden due to adjustments in the labor burden calculations. The previous ICR included a burden item for Agency review of surface methane monitoring reports. Respondents, however, are not required to submit reports; therefore, no Agency burden will be incurred. For this reason we have adjusted the calculations to exclude any Agency burden associated with surface methane monitoring. We have also adjusted the total labor burden attributed to EPA technical, managerial, and clerical labor. As described in the previous paragraph, we adjusted the calculations for consistency with other ICRs, and so that managerial and clerical hours account for an additional 5 and 10 percent, respectively, of technical labor hours. The net result of these adjustments was a decrease in burden.

There is also a decrease in O&M costs from the most recently approved ICR. This decrease is not due to any program changes, and is attributed to the decrease in the number of respondents due to landfill closures that have occurred since the previous ICR was approved. As a result, there is a proportional decrease in the O&M cost.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–03742 Filed 2–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9780–1]

Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Applicant of Adair, OK

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Regional Administrator of EPA Region 6 is hereby granting a project waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] to the Oklahoma Conservation Commission (''the applicant'') for the for 2,400 square yards of fiber (coir) woven mats to be installed as part of a stream channel restoration on eleven sites located in Adair and Cherokee Counties, Oklahoma for the CWSRF wastewater treatment plant project. The required fiber (coir) woven mat is manufactured by foreign manufacturers and no United States manufacturer produces an alternative that meets the Applicant's technical specifications. This is a project specific waiver and only applies to the use of the specified product for the ARRA funded project being proposed. Any other ARRA project that may wish to use the same product must apply for a separate waiver based on the specific project circumstances. The Regional Administrator is making this determination based on the review and recommendations of the EPA Region 6, Water Quality Protection Division. The Applicant has provided sufficient documentation to support its request.

The Assistant Administrator of the EPA's Office of Administration and Resources Management has concurred on this decision to make an exception to Section 1605 of ARRA. This action permits the purchase of the selected fiber (coir) woven mat is not manufactured in America, for the proposed project being implemented by the Applicant.

DATES: *Effective Date:* January 17, 2013.

FOR FURTHER INFORMATION CONTACT: Nasim Jahan, Buy American Coordinator, (214) 665–7522, SRF & Projects Section, Water Quality Protection Division, U.S. EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

SUPPLEMENTARY INFORMATION: In accordance with ARRA Section 1605(c) and 1605(b)(2), EPA hereby provides notice that it is granting a project waiver of the requirements of Section 1605(a) of Public Law 111–5, Buy American requirements, to the Applicant for the acquisition of selected made fiber (coir) woven mat. The Applicant has been unable to find American made fiber (coir) woven mat to meet its specific wastewater requirements.

Section 1605 of ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States unless a waiver is provided to the recipient by EPA. A waiver may be provided if EPA determines that: (1) Applying these requirements would be inconsistent with public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

The Applicant has requested a waiver for fiber (coir) woven mats to be installed as part of a stream channel restoration on eleven sites located in Adair and Cherokee Counties, Oklahoma. The applicant claims that the product required to meet project design and performance specification requirements is not manufactured in the United States.

Restoration of stream banks in the Illinois River Watershed within Adair and Cherokee counties of northeastern Oklahoma requires installation requires a fiber (coir) woven mat to stabilize soil and overcome the high shear stress found in a stream environment. Additional key requirements of the project dictate a product that is 100 percent biodegradable and has a functional lifespan of two to three years. The project specification criteria are listed below:

Property	Specification
Weight (ASTM D 5263)	23 oz/SY
Tensile Strength Dry (ASTM D 4595):	
Machine Direction	1740 lbs/ft
Cross direction	1176 lbs/ft
Tensile Strength Wet (ASTM D 4595):	
Machine Direction	1488 lbs/ft
Cross direction	1032 lbs/ft
Open area	48%

Property	Specification
Thickness (ASTM D 5199) ..	0.35 inch
Recommended slope	> 1:1
Recommended flow	12 fps
Recommended shear stress	4.5 lbs/ft^2
"C" factor	0.002
Roll Size	6.5′ x 164′
Functional Longevity	2 to 3 Yrs.

Based on additional research conducted by EPA Region 6 there do not appear to be any American-made fiber (coir) woven mat that would meet the Applicant's technical specifications. EPA's national contractor prepared a technical assessment report based on the waiver request submittal, which confirmed the waiver applicant's claim that there is no American-made fiber (coir) woven mat available for use in the proposed waste water treatment system.

EPA has also evaluated the Applicant's request to determine if its submission is considered late or if it could be considered timely, as per the OMB regulation at 2 CFR § 176.120. EPA will generally regard waiver requests with respect to components that were specified in the bid solicitation or in a general/primary construction contract as ''late'' if submitted after the contract date. However, EPA could also determine that a request be evaluated as timely, though made after the date that the contract was signed, if the need for a waiver was not reasonably foreseeable. If the need for a waiver is reasonably foreseeable, then EPA could still apply discretion in these late cases as per the OMB Guidance, which says ''the award official may deny the request.'' For those waiver requests that do not have a reasonably unforeseeable basis for lateness, but for which the waiver basis is valid and there is no apparent gain by the ARRA recipient or loss on behalf of the government, then EPA will still consider granting a waiver.

In this case this ''shovel ready'' project experienced significant delays during the preliminary design. Originally, the Oklahoma Conservation Commission contracted with the Oklahoma Department of Wildlife Resources (ODWR) to evaluate potential sites and to perform preliminary design and cost estimates to assess feasibility of including sites in this project. The intent was to hire a design/build team to perform the work. The ODWR had two leading experts in stream restoration who were assigned to this project. Some months into the project, both experts left ODWR to employment elsewhere. After months of trying to replace them, ODWR were unable to execute the project.

Oklahoma Conservation Commission then contracted with Oklahoma State University to evaluate and select sites for the project. After months of work and careful coordination with Oklahoma Department of Environmental Quality and U.S. Army Corps of Engineers, Oklahoma State University identified 12 sites that should be able to qualify for nationwide 404 permits and might reasonably be restored within the project budget.

The contract was awarded in Dec 2011 and site-specific design began in early 2012. Once designs were available and it was realized that coir fiber mats would be needed, Oklahoma Water Resources Board instructed the applicant to apply for a waiver request. EPA believes that the need for a waiver was not reasonably foreseeable and thus will treat the Applicant's waiver request as if timely submitted.

The April 28, 2009, EPA HQ Memorandum, Implementation of Buy American provisions of Public Law 111–5, the ''American Recovery and Reinvestment Act of 2009,'' defines reasonably available quantity as ''the quantity of iron, steel, or relevant manufactured good is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design.'' The Applicant has incorporated specific technical design requirements for installation of fiber (coir) woven mat at its wastewater treatment plant.

The purpose of the ARRA is to stimulate economic recovery in part by funding current infrastructure construction, not to delay projects that are ''shovel ready'' by requiring utilities, such as the Applicant, to revise their standards and specifications, institute a new bidding process, and potentially choose a more costly, less efficient project. The imposition of ARRA Buy American requirements on such projects otherwise eligible for State Revolving Fund assistance would result in unreasonable delay and thus displace the ''shovel ready'' status for this project. To further delay construction is in direct conflict with a fundamental economic purpose of the ARRA, which is to create or retain jobs.

The Region 6 Water Quality Protection Division has reviewed this waiver request, and has determined that the supporting documentation provided by the Applicant is sufficient to meet the criteria listed under ARRA, Section 1605(b), Office of Management and Budget (OMB) regulations at 2 CFR 176.60–176.170, and in the April 28, 2009, memorandum, ''Implementation of Buy American provisions of Public Law 111–5, the American Recovery and Reinvestment Act of 2009.'' The basis for this project waiver is the authorization provided in ARRA, Section 1605(b)(2). Due to the lack of production of this product in the United States in sufficient and reasonably available quantities and of a satisfactory quality in order to meet the Applicant's technical specifications, a waiver from the Buy American requirement is justified.

EPA headquarters' March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients. Having established both a proper basis to specify the particular goods required for this project, and that these manufactured goods are not available from a producer in the United States, the Applicant is hereby granted a waiver from the Buy American requirements of ARRA, Section 1605(a) of Public Law 111–5 for the purchase of the selected fiber (coir) woven mat, using ARRA funds, as specified in the Applicant's request. This supplementary information constitutes the detailed written justification required by ARRA, Section 1605(c), for waivers ''based on a finding under subsection (b).''

Authority: Pub. L. 111–5, section 1605.

Dated: January 17, 2013.

Ron Curry,

Regional Administrator, U.S. Environmental Protection Agency, Region 6.

[FR Doc. 2013–03599 Filed 2–15–13; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 2013–0115]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB Review and Comments Request.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

The form represents the exporter's directive to Ex-Im Bank to whom and where the insurance proceeds should be sent, and also describes the duties and obligations that have to be met by the financial institution in order to share in the policy proceeds. The form is typically part of the documentation required by financial institution lenders in order to provide financing of an exporter's foreign accounts receivable. Foreign accounts receivable insured by Ex-Im Bank represent stronger collateral to secure the financing. By recording which policyholders have completed this form, Ex-Im Bank is able to determine how many of its exporter policyholders require Ex-Im Bank insurance policies to support lender financing.

The form can be viewed at *www.exim.gov/pub/pending/eib99-17.pdf.*

DATES: Comments should be received on or before March 21, 2013 to be assured of consideration.

ADDRESSES: Comments maybe submitted electronically on *www.regulations.gov* or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20038 Attn: OMB 3048–EIB99–17.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 99–17 Enhanced Assignment of Policy Proceeds.

OMB Number: 3048–xxxx.

Type of Review: New.

Need and Use: This collection of information is used by exporters to convey legal rights to, and describe the duties and obligations that have to be met by their financial institution lender in order to share insurance policy proceeds from Ex-Im Bank approved insurance claims.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Public Burden

The number of respondents: 110.
The frequency of response: Annually.
Response Burden: 15 minutes.

Government Burden

Reviewing Time: 1 hour.
Responses/year: 110.
Review time/year: 110 hours.
Avg Wages/hr: $30.25.
Avg wage/year: $3,327.5.
Benefits & Overhead: 28%.
Total Government Cost: $4,259.20.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2013–03628 Filed 2–15–13; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL ELECTION COMMISSION

Public Availability of Federal Election Commission, Procurement Division FY 2012 Service Contract Inventory

AGENCY: Federal Election Commission.

ACTION: Notice of public availability of FY 2012 Service Contract inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), FEC PROCUREMENT DIVISION is publishing this notice to advise the public of the availability of the FY 2011 Service Contract inventory. This inventory provides information on service contract actions over $25,000 that were made in FY 2012. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on December 19, 2011 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at: *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.*

The FEC Procurement Division has posted its inventory and a summary of the inventory on the FEC homepage at the following link: *http://www.fec.gov/pages/procure/procure.shtml.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Roshawn K. Majors, Director of Procurement, at 202–694–1225 or *rmajors@fec.gov.*

Shawn Woodhead Werth,

Secretary and Clerk, Federal Election Commission.

[FR Doc. 2013–03720 Filed 2–15–13; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Cynthia Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following report:

Report title: Bank Secrecy Act Suspicious Activity Report (BSA–SAR).

Agency form number: FR 2230.

OMB control number: 7100–0212.

Frequency: On occasion.

Reporters: State member banks, bank holding companies and their nonbank subsidiaries, Edge and agreement corporations, and the U.S. branches and agencies, representative offices, and nonbank subsidiaries of foreign banks supervised by the Federal Reserve.

Estimated annual reporting hours: 139,515 hours.

Estimated average hours per response: 1.5 hours.

Number of respondents: 6,000.

General description of report: The BSA–SAR is mandatory, pursuant to authority contained in the following statutes: 12 U.S.C. 248(a)(1), 625, 1844(c), 3105(c)(2), 3106(a), and 1818(s). SARs are exempt from Freedom of Information Act (FOIA) disclosure by 31 U.S.C. 5319 and FIOA exemption 3 which incorporates into the FOIA certain nondisclosure provisions that are contained in other federal statutes, 5 U.S.C. 552(b)(3), and by FOIA exemption 7, which generally exempts from public disclosure ''records or

information compiled for law enforcement purposes,'' 5 U.S.C. 552(b)(7). Additionally, pursuant to 31U.S.C. 5318(g), officers and employees of the Federal government are generally forbidden from disclosing the contents of a SAR, or even acknowledging that a SAR exists, to a party involved in a transaction that is the subject of a SAR. Finally, information contained in SARs may be exempt from certain disclosure and other requirements of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Abstract: Since 1996, the federal banking agencies (the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Credit Union Administration) and the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) have required certain types of financial institutions to report known or suspected violations of law and suspicious transactions. To fulfill these requirements, supervised banking organizations file SARs. Law enforcement agencies use the information submitted on the reporting form to initiate investigations and the Federal Reserve uses the information in the examination and oversight of supervised institutions.

Current Actions: On December 5, 2012, the Federal Reserve published a notice in the **Federal Register** (77 FR 72349) requesting public comment for 60 days on the extension, with revision, of the interagency Suspicious Activities Report by Depository Institutions. The comment period for this notice expired on February 4, 2013. The Federal Reserve did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, February 12, 2013.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2013–03663 Filed 2–15–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 5, 2013.

A. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. *Gateano P. Giordano and Mark J. Baiada,* both of Moorestown, New Jersey, to acquire voting shares of Cornerstone Financial Corporation, and thereby indirectly acquire voting shares of Cornerstone Bank, both in Mt. Laurel, New Jersey.

B. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. George and Calliope Apostolou; Panagiotis Apostolou; Mark S. and Linda C. Berset; Derek S. Berset; Gary N. and Eileen L. Berset; Jason N. Berset; Kristin N. Berset; Larry C. and Mary S. Cunningham; Dennis R. Deloach, III; Jeffory H. and Sherry B. Forbes; Mohamed and Amira Helal; Nadine Helal; Tarek Helal; K&M Insurance Investors, LLC; Trifon Houvardas; Paul Houvardas; Bruce T. and Sheba Lucas; Universal Finance & Investments LLC; Sanjay Madhu; Alex Madhu; Andrew Madhu; Felix & Fiona, LLC; Ahmad Nematbakhsh; Harish and Khyati Patel; Pareshbhai and Neha Patel; Gregory Politis; Christos and Effie Politis; Peter Politis; Anthony and Maria Z. Saravanos; Shane R. and Nicole F. Stowell; Martin Traber; Mary J. Vattamattam; Shaju and Miriam Vattamattam; and Harold J. Winner, all of Seminole, Florida; to retain voting shares of First Home Bancorp, Inc., and thereby indirectly retain voting shares of First Home Bank, both in Seminole, Florida.

C. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Richard Lee Newman,* Mayville, North Dakota; to acquire voting shares of Full Service Insurance Agency Inc., and thereby indirectly acquire voting shares of First State Bank, both in Buxton, North Dakota.

Board of Governors of the Federal Reserve System, February 13, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–03717 Filed 2–15–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 15, 2013.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Wintrust Financial Corporation,* Rosemont, Illinois; to acquire 100 percent of the voting shares of First Lansing Bancorp, Inc., and thereby indirectly acquire voting shares of First National Bank of Illinois, both in Lansing, Illinois.

Board of Governors of the Federal Reserve System, February 13, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–03719 Filed 2–15–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 5, 2013.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Union Financial Corporation, Lake Odessa, Michigan; to engage *de novo* through its subsidiary, Union Consulting, LLC, Lake Odessa, Michigan, in providing certain regulatory compliance consulting services to unaffiliated community banks, pursuant to section 225.28(b)(9)(i).

Board of Governors of the Federal Reserve System, February 13, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–03718 Filed 2–15–13; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–CIB–2012–04; Docket No: 2012–0002; Sequence 27]

Privacy Act of 1974; Notice of New System of Records

AGENCY: General Services Administration.

ACTION: New notice.

SUMMARY: The General Services Administration (GSA) proposes to establish a new system of records subject to the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

DATES: Effective March 21, 2013.

FOR FURTHER INFORMATION CONTACT: Call or email the GSA Privacy Act Officer: telephone 202–208–1317; email *gsa.privacyact@gsa.gov.*

ADDRESSES: GSA Privacy Act Officer (CIB), General Services Administration, 1275 First Street NE., Washington, DC 20417.

SUPPLEMENTARY INFORMATION: GSA proposes to establish a new system of records subject to the Privacy Act of 1974, 5 U.S.C. 552a. The new system, System for Award Management (SAM), combines several Governmentwide systems into one. SAM contains records that capture information users voluntarily provide about their entity as part of the process to register to do business with the Federal Government. SAM also contains exclusion records that Federal Government agencies enter to suspend or debar entities.

Dated: February 13, 2013.

James Atwater,

Acting Director, Office of Information Management.

GSA/GOVT–9

SYSTEM NAME:

System for Award Management (SAM).

SYSTEM LOCATION:

The General Services Administration (GSA) Federal Acquisition Service (FAS) is the owner of the system. The system is hosted, operated, and maintained by contractors. Records are maintained in an electronic form on servers housed at the contractors' facilities within the United States. Contact the system manager for additional information.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SAM currently has two functional areas which cover individuals. In the Entity Management functional area, SAM covers individuals who are sole proprietors and register to do business with the Government as sole proprietors. For purposes of this system of records notice, individuals with records in the Entity Management functional area will be referred to as ''entity'' or ''entities''. In the exclusion portion of the Performance Information functional area, SAM covers individuals who are excluded or disqualified under certain circumstances, including but not limited to the following: A Federal agency's action under the Common Rules on Non-procurement suspension and debarment, or otherwise declared ineligible from receiving certain Federal assistance and/or benefits; individuals debarred, suspended, proposed for debarment, or otherwise declared ineligible from participating in Federal procurement programs; individuals barred or suspended from acting as sureties for bid and performance bond activity in procurement programs; individuals barred from entering the United States; and individuals that may be subject to sanctions pursuant to 31 CFR Parts 500–599 and subparts thereunder.

CATEGORIES OF RECORDS IN THE SYSTEM:

Since SAM combined several Governmentwide systems, it has multiple functional areas. In the Entity Management functional area, SAM contains records that capture information users voluntarily provide about their entity as part of the process to register to do business with the Federal Government, including the entity legal business name, entity email address, entity telephone number, entity Taxpayer Identification Number (TIN), and entity address. In the case of a sole proprietor, tax laws allow them to use their Social Security Number (SSN) as their TIN if they do not have a separate Employer Identification Number (EIN). The TIN (whether it be an EIN or an SSN) is not publicly available data. In the exclusion portion of the Performance Information functional area, SAM contains records entered by Federal agency suspension and debarment officials, some of which may be records on individuals. Exclusion records on individuals contain certain information that will never be displayed publicly, e.g. street address information, as well as the SSN or TIN. Agencies disclose the SSN of an individual to verify the identity of an individual, only if permitted under the Privacy Act of 1974 and, if appropriate, the Computer Matching and Privacy Protection Act of 1988, as codified in 5 U.S.C. 552(a).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

For the Entity Management functional area of SAM, the authorities for collecting the information and maintaining the system are the Federal Acquisition Regulation (FAR) Subparts 4.11 and 52.204 and 2 CFR, Subtitle A, Chapter I, and Part 25, as well as 40 U.S.C. 121(c). For the exclusions portion of the Performance Information functional area, the authorities for

collecting the information and maintaining the system are FAR Subparts 9.4 and 28.2, Executive Order 12549 (February 18, 1986), Executive Order 12689 (August 16, 1989).

PURPOSE:

GSA proposes to establish a new system of records subject to the Privacy Act of 1974 (as amended), 5 U.S.C. 552a. The System for Award Management (SAM) consolidates functions that were previously handled by the Central Contractor Registration (CCR) system, Excluded Parties List System (EPLS), and Online Representations and Certifications Application (ORCA). SAM provides the capability to manage information about entities wishing to do business with the Federal Government, and maintain information about those entities to ensure that entities seeking to do business with the Federal Government have not been debarred, suspended, or otherwise excluded from doing business. SAM maintains this Governmentwide system of records to enable Federal agencies to determine who is registered to do business with the Federal Government, and to identify individuals who have been excluded from participating in Federal procurement and non-procurement (financial or non-financial assistance and benefits programs), throughout the Federal Government. In some instances a record may demonstrate that an exclusion applies only to the agency taking the action, and therefore does not have Governmentwide effect. The purpose of these exclusions is to protect the Government from non-responsible contractors and individuals, ensure proper management throughout the Federal government, and protect the integrity of Federal activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

System information may also be used:

a. By contracting officers and other Federal, state, local or tribal government employees involved in procuring goods and services with federal funds or administering Federal financial assistance programs or benefits to determine a party's eligibility status to participate in Federal procurement and non-procurement programs.

b. By a Federal, state, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statue, rule, regulation or order where records clearly indicate, or when seen with other records indicate, a violation of civil or criminal law or regulation, when the information is needed to perform a Federal duty or to decide the issues.

c. By a Federal, state, local, or tribal agency, financial institution or a healthcare or industry provider that administers federal financial or non-financial assistance programs or benefits, when the information is needed to determine eligibility.

d. By an expert, consultant, contractor, Federal, state, local, or tribal agency, or financial institution, when the information is needed to perform a Federal duty.

e. By an appeal, grievance, or formal complaints examiner, an equal employment opportunity investigator, an arbitrator, a union representative, or other official engaged in investigating or settling a grievance, complaint, or appeal filed by an employee, when the information is needed to decide the issues.

f. By a requesting Federal, state, local, or tribal agency, financial institution, or a healthcare or industry provider in connection with hiring or retaining an employee, issuing a security clearance, investigating an employee, clarifying a job, letting a contract, or issuing a license, grant, or other benefit by the requesting agency where the information is needed to decide on a Federal financial or non-financial assistance program or benefit.

g. By a member of Congress or to a congressional staff member in response to a request from the person who is the subject of the record, when the information is needed to perform a Federal duty.

h. By the Department of Justice when an agency, an agency employee, or the United States is a party to or has an interest in litigation, and the records are needed to pursue the litigation.

i. By a court or judicial body when an agency, an agency employee, or the United States is a party to or has an interest in litigation, and the records are needed to pursue the litigation.

j. By the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), the Government Accountability Office (GAO) or the Interagency Suspension and Debarment Committee (ISDC) when the information is required for program evaluation purposes.

k. By the National Archives and Records Administration (NARA) for records management purposes.

l. By appropriate agencies, entities, and persons when (1) The Agency suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Agency has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by GSA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with GSA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

m. By the ''Do Not Pay Program'' which receives excluded parties information and affirmative criminal, civil, and administrative proceedings entries from entity registration records and displays it to Federal agencies for the purpose of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state in a state-administered, federally funded program. This transfer of information is authorized pursuant to the Improper Payments Elimination and Recovery Act of 2010, Executive Order 13520, and Presidential Memorandum dated June 18, 2010, which required agencies to review existing databases known collectively as the ''Do Not Pay List'' before the release of any Federal funds. The purpose of the ''Do Not Pay List'' is to help prevent, reduce and stop improper payments from being made, and to identify and mitigate fraud, waste and abuse.''

STORAGE:

Electronic records are stored on a secure server, backed up to tape media, and accessed only by authorized personnel.

RETRIEVAL:

System records are retrievable by searching against information in the record, including, but not limited to, the person's or entity's name, DUNS number, Social Security Number (SSN) and Taxpayer Identification Number (TIN). Searching for registration records by TIN is limited to Federal Government users. Searching for exclusion records by SSN or TIN requires an exact name match, just like in the legacy EPLS system.

RETENTION AND DISPOSAL:

System records are retained and disposed of according to GSA records maintenance and disposition schedules, the requirements of the Recovery Board, and the National Archives and Records Administration. For the Entity Management functional area, SAM allows users to update and delete their own entity registration records. For the

exclusions portion of the Performance Information functional area, electronic records of past exclusions are maintained permanently in the archive list for historical reference. Federal agencies reporting exclusion information in SAM should follow their agency's guidance and policies for disposition of paper records.

SYSTEM MANAGER AND ADDRESS:

Integrated Award Environment Program Manager, Office of Integrated Award Environment, Federal Acquisition Service, U.S. General Services Administration, 2200 Crystal Drive, Arlington, Virginia 22202.

SAFEGUARDS:

System records are safeguarded in accordance with the requirements of the Privacy Act, the Computer Security Act, and the SAM System Security Plan. System roles are assigned with specific permissions to allow or prevent accessing certain information. Technical, administrative, and personnel security measures are implemented to ensure confidentiality and integrity of the system data that is stored, processed, and transmitted, including password protection and other appropriate security measures.

NOTIFICATION PROCEDURE:

For the Entity Management functional area, individuals know that SAM contains a record on them because they created the record. For the exclusions portion of the Performance Management functional area, individuals receive prior notification that their names will be contained in SAM from the Federal agency that takes the action to exclude them from Federal procurement and non-procurement programs. An individual may retrieve exclusion records by accessing the SAM public portal, which displays publicly available information only. Individuals may also contact the system program manager to inquire about any records about the individual.

RECORD ACCESS PROCEDURES:

Since individuals create the entity registration record in SAM and can delete or amend the record, there should not be any questions about that entry. However, individuals can contact the system manager with questions about the operation of the Entity Management functional area. Requests from individuals to determine the specifics of an exclusion record included in SAM should be addressed to the Federal agency POC identified in the exclusion record.

CONTESTING RECORD PROCEDURES:

Individuals or entities registered in SAM can edit their own registration record information. To contest the content of an exclusion record, individuals should contact the Federal agency point of contact identified in the exclusion record. For GSA provided exclusion records, procedures for contesting the content of a record and appeal procedures can be found at 41 CFR 105–64.

RECORD SOURCE CATEGORIES:

Entity records are created by the person or entity wishing to do business with the government. Exclusion records are created by Federal agency suspension and debarment personnel.

[FR Doc. 2013–03743 Filed 2–15–13; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH or Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), and pursuant to the requirements of 42 CFR 83.15(a), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Board Public Meeting Times and Dates (All times are Eastern Time): 9:45 a.m.–6:00 p.m., March 12, 2013.

Public Comment Times and Dates (All times are Eastern Time): 6:00 p.m.–7:00 p.m.,* March 12, 2012.

**Please note that the public comment period may end before the times indicated, following the last call for comments. Members of the public who wish to provide public comments should plan to attend public comment sessions at the start times listed.*

Place: Augusta Marriott Hotel, Two Tenth Street, Augusta, GA 30901; Phone: 706–722–8900; Fax: 706–724–0044. Audio Conference Call via FTS Conferencing. The USA toll-free, dial-in number is 1–866–659–0537 with a pass code of 9933701.

Status: Open to the public, limited only by the space available. The meeting space accommodates approximately 150 people.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines which have been promulgated by the Department of Health and Human Services (HHS) as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2013.

Purpose: This Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters To Be Discussed: The agenda for the Advisory Board meeting includes: NIOSH Program Update; Department of Labor Program Update; Department of Energy Program Update; SEC petitions for: Brookhaven National Laboratory (1994–2007), Baker Brothers (Toledo, OH; 1945–1996); Procedures Review Subcommittee Report; SEC Issues Work Group Report on ''Sufficient Accuracy''; Savannah River Site Work Group Update; SEC Petitions Update; and Board Work Sessions.

The agenda is subject to change as priorities dictate.

In the event an individual cannot attend, written comments may be submitted in accordance with the redaction policy provided below. Any written comments received will be provided at the meeting and should be submitted to the contact person below well in advance of the meeting.

Policy on Redaction of Board Meeting Transcripts (Public Comment): (1) If a person making a comment gives his or her name, no attempt will be made to redact that name. (2) NIOSH will take reasonable steps to ensure that individuals making public comment are aware of the fact that their comments (including their name, if provided) will appear in a transcript of the meeting posted on a public Web site. Such reasonable steps include: (a) A statement read at the start of each public comment period stating that transcripts will be posted and names of speakers will not be redacted; (b) A printed copy of the statement mentioned in (a) above

will be displayed on the table where individuals sign up to make public comments; (c) A statement such as outlined in (a) above will also appear with the agenda for a Board Meeting when it is posted on the NIOSH Web site; (d) A statement such as in (a) above will appear in the **Federal Register** Notice that announces Board and Subcommittee meetings. (3) If an individual in making a statement reveals personal information (e.g., medical information) about themselves that information will not usually be redacted. The NIOSH Freedom of Information Act (FOIA) coordinator will, however, review such revelations in accordance with the FOIA and the Federal Advisory Committee Act and if deemed appropriate, will redact such information. (4) All disclosures of information concerning third parties will be redacted. (5) If it comes to the attention of the DFO that an individual wishes to share information with the Board but objects to doing so in a public forum, the DFO will work with that individual, in accordance with the Federal Advisory Committee Act, to find a way that the Board can hear such comments.

Contact Person for More Information: Theodore Katz, DFO, NIOSH, CDC, 1600 Clifton Road, MS E–20, Atlanta, GA 30333, telephone: (513) 533–6800, toll free: 1–800–CDC–INFO, email: *dcas@cdc.gov*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 2013–03612 Filed 2–15–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Office of Infectious Diseases (BSC, OID)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Time and Date: 3:00–4:00 p.m. Eastern Time, March 14, 2013.

Place: Teleconference.

Status: The meeting is open to the public; the toll free dial in number is 1–877–951–7311 with a passcode of 6420598.

Purpose: The BSC, OID, provides advice and guidance to the Secretary, Department of Health and Human Services; the Director, CDC; the Director, OID; and the Directors of the National Center for Immunization and Respiratory Diseases, the National Center for Emerging and Zoonotic Infectious Diseases, and the National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, CDC, in the following areas: strategies, goals, and priorities for programs; research within the national centers; and overall strategic direction and focus of OID and the national centers.

Matters To Be Discussed: The purpose of the meeting is to discuss the potential for forming an infectious disease laboratory working group under the BSC, OID.

The agenda and any supplemental material will be available at *www.cdc.gov/oid/BSC.html* after March 1.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Robin Moseley, M.A.T., Designated Federal Officer, OID, CDC, 1600 Clifton Road NE., Mailstop D10, Atlanta, Georgia 30333, Telephone: (404) 639–4461.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 2013–03610 Filed 2–15–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH)

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned committee:

Time and Dates: 8:30 a.m.–3:15 p.m., March 21, 2013.

Place: Patriots Plaza I, 395 E Street SW., Room 9200, Washington, DC 20201.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people. If you wish to attend in person, please contact NIOSH at (202) 245–0625 or (202) 245–0626 for information on building access. Teleconference is available toll-free; please dial (877) 328–2816, Participant Pass Code 6558291.

Purpose: The Secretary, the Assistant Secretary for Health, and by delegation the Director, Centers for Disease Control and Prevention, are authorized under Sections 301 and 308 of the Public Health Service Act to conduct directly or by grants or contracts, research, experiments, and demonstrations relating to occupational safety and health and to mine health. The Board of Scientific Counselors shall provide guidance to the Director, National Institute for Occupational Safety and Health on research and prevention programs. Specifically, the Board shall provide guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings and disseminating results. The Board shall evaluate the degree to which the activities of the National Institute for Occupational Safety and Health: (1) Conform to appropriate scientific standards, (2) address current, relevant needs, and (3) produce intended results.

Matters To Be Discussed: NIOSH Director Update; Implementation of the National Academies Program Recommendations for Construction Safety and Health, Respiratory Disease Studies, and Traumatic Injury Prevention, Nanotechnology Research Strategic Plan, Influenza Research, Agriculture, Forestry, and Fishing Sector Update.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Roger Rosa, Ph.D., Designated Federal Officer, BSC, NIOSH, CDC, 395 E Street SW., Suite 9200, Patriots Plaza Building, Washington, DC 20201, telephone (202) 245–0655, fax (202) 245–0664.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the CDC and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–03737 Filed 2–15–13; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0115]

Agency Information Collection Activities; Proposed Collection; Comment Request; Manufactured Food Regulatory Program Standards

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of

information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on ''Manufactured Food Regulatory Program Standards.''

DATES: Submit either electronic or written comments on the collection of information by April 22, 2013.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., P150–400B, Rockville, MD 20850, 301–796–7726, *Ila.Mizrachi@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Manufactured Food Regulatory Program Standards—(OMB Control Number 0910–0601)—Extension

In the **Federal Register** of July 20, 2006 (71 FR 41221), FDA announced the availability of a draft document entitled ''Manufactured Food Regulatory Program Standards (MFRPS).'' These draft program standards are the framework that States should use to design and manage its manufactured food program. The implementation of the standards will be negotiated as an option for payment under the State food contract. States that are awarded this option will receive up to $25,000 over a period of 5 years to fully implement the program standards. Additionally, 26 States may receive up to $300,000 each year for a period of 5 years to be in compliance with the 10 standards.

In the first year of implementing the program standards, the State program conducts a baseline self-assessment to determine if they meet the elements of each standard. The State program should use the worksheets and forms contained herein; however, it can use alternate forms that are equivalent. The State program maintains the documents and verifying records required for each standard. The information contained in the documents must be current and fit-for-use. If the State program fails to meet all program elements and documentation requirements of a standard, it develops a strategic plan which includes the following: (1) The individual element of documentation requirement of the standard that was not met; (2) improvements need to meet the program element or documentation requirement of the standard; and (3) projected completion dates for each task.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Respondent	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
State Departments of Agriculture or Health	44	1	44	303	13,332

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden has been calculated to 303 hours per respondent. This burden was determined by capturing the average amount of time for each respondent to assess the current state of the program and work toward implementation of each of the 10 standards contained in MFRPS. The hours per respondent will remain the same as implementation to account for continuing improvement and self-sufficiency in the program.

Dated: February 11, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–03707 Filed 2–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0093]

Agency Information Collection Activities; Proposed Collection; Comment Request; Evaluation of the Program for Enhanced Review Transparency and Communication for New Molecular Entity New Drug Applications and Original Biologics License Applications in Prescription Drug User Fee Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on a proposed information collection involving interviews of pharmaceutical manufacturers who submit new molecular entity (NME) new drug

applications (NDAs) and original biologics license applications (BLAs) to FDA under the Program for Enhanced Review Transparency and Communication (''the Program'') during fiscal years (FYs) 2013–2017. The Program is part of the FDA performance commitments under the fifth authorization of the Prescription Drug User Fee Act (PDUFA), which allows FDA to collect user fees for the review of human drug and biologics applications for FYs 2013–2017.

DATES: Submit either electronic or written comments on the collection of information by April 22, 2013.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7726. *Ila.Mizrachi@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Evaluation of the Program for Enhanced Review Transparency and Communication for New Molecular Entity New Drug Applications and Original Biologics License Applications in PDUFA V: Interviews of Applicants in the Program (OMB Control Number 0910–New)

As part of its commitments in PDUFA V, FDA has established a new review Program to promote greater transparency and increased communication between the FDA review team and the applicant on the most innovative products reviewed by the Agency. The Program applies to all NME NDAs and original BLAs that are received from October 1, 2012, through September 30, 2017. The Program is described in detail in section II.B of the document entitled ''PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2013 through 2017'' (the ''Commitment Letter'') (available at *http://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM270412.pdf.*

The goals of the Program are to increase the efficiency and effectiveness of the first review cycle and decrease the number of review cycles necessary for approval so that patients have timely access to safe, effective, and high-quality new drugs and biologics. A key aspect of the Program is an interim and final assessment that will evaluate how well the parameters of the Program have achieved the intended goals. The PDUFA V Commitment Letter specifies that the assessments be conducted by an independent contractor and that they include interviews of pharmaceutical manufacturers who submit NME NDAs and original BLAs to the Program in PDUFA V. The contractor for the assessments of the Program is Eastern Research Group, Inc. (ERG), and the statement of work for the assessments is available at *http://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM304793.pdf.*

Therefore, in accordance with the PDUFA V Commitment Letter, FDA proposes to have ERG conduct independent interviews of applicants after FDA issues a first-cycle action for applications reviewed under the Program. The purpose of these interviews is to collect feedback from applicants on the success of the Program in increasing review transparency and communication during the review process. ERG will anonymize and aggregate sponsor responses prior to inclusion in the assessments and any presentation materials at public meetings. FDA will publish ERG's assessments (with interview results and findings) in the **Federal Register** for public comment.

FDA typically reviews approximately 40 to 45 NME NDAs and original BLAs per year. ERG will interview 1 to 3 sponsor representatives at a time for each application that receives a first-cycle action from FDA—up to 135 sponsor representatives per year. Thus, FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Portion of study	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Pretest	5	1	5	1.5	7.50
Interviews	135	1	135	1.5	202.50
Total					210

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

ERG will conduct a pretest of the interview protocol with five respondents. FDA estimates that it will take 1.0 to 1.5 hours to complete the pretest, for a total of a maximum of 7.5 hours. We estimate that up to 135

respondents will take part in the post-action interviews each year, with each interview lasting 1.0 to 1.5 hours, for a total of a maximum of 202.5 hours. Thus, the total estimated annual burden is 210 hours. FDA's burden estimate is based on prior experience with similar interviews with the regulated community.

Dated: February 11, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–03705 Filed 2–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0117]

Draft Guidance for Industry and Food and Drug Administration Staff; Providing Information About Pediatric Uses of Medical Devices Under Section 515A of the Federal Food, Drug, and Cosmetic Act; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Draft Guidance for Industry and Food and Drug Administration Staff: Providing Information About Pediatric Uses of Medical Devices Under Section 515A of the Federal Food, Drug, and Cosmetic Act.'' FDA is issuing this guidance document to describe how to compile and submit the readily available pediatric use information required under the Federal Food, Drug, and Cosmetic Act (the FD&C Act). This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by April 22, 2013. Submit comments on information collection issues under the Paperwork Reduction Act of 1995 by April 22, 2013, (see the ''Paperwork Reduction Act of 1995'' section of this document).

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Draft Guidance for Industry and Food and Drug Administration Staff: Providing Information About Pediatric Uses of Medical Devices Under Section 515A of the Federal Food, Drug, and Cosmetic Act'' to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4613, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

With regard to the guidance: Sheila Brown, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1651, Silver Spring, MD 20993–0002, 301–796–6563; or

Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852, 301–827–6210.

With regard to the proposed collection of information: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–5156, *daniel.gittleson@fda.hhs.gov.*

I. Background

On September 27, 2007, the Food and Drug Administration Amendments Act of 2007 (FDAAA) [1] (Pub. L. 110–85) amended the FD&C Act by adding, among other things, a new section 515A (21 U.S.C. 360e–1) of the FD&C Act. Section 515A(a) of the FD&C Act requires persons who submit certain medical device applications to include, if readily available:

1. A description of any pediatric subpopulations that suffer from the disease or condition that the device is intended to treat, diagnose, or cure; and

2. The number of affected pediatric patients.

The purpose of this guidance document is to describe the type of information that FDA believes is readily available to the applicant, and the information FDA believes should be included in a submission to meet the requirements of section 515A(a) of the FD&C Act.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on the requirements relating to the submission of information on pediatric subpopulations that suffer from the disease or condition that a device is intended to treat, diagnose, or cure. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov* or from CBER at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm.* To receive ''Draft Guidance for Industry and Food and Drug Administration Staff: Providing Information About Pediatric Uses of Medical Devices Under Section 515A of the Federal Food, Drug, and Cosmetic Act,'' you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1801 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320(c) and includes Agency requests or requirements that members of the public

[1] Title III of FDAAA, which includes new section 515A, is also known as the Pediatric Medical Device Safety and Improvement Act of 2007.

submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing this notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden on the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Devices; Pediatric Uses of Devices; Requirement for Submission of Information on Pediatric Subpopulations That Suffer From a Disease or Condition That a Device Is Intended To Treat, Diagnose, or Cure

The draft guidance suggests that applicants who submit certain medical device applications include, if readily available, pediatric use information for diseases or conditions that the device is being used to treat, diagnose, or cure that are outside the device's approved or proposed indications for use, as well as an estimate of the number of pediatric patients with such diseases or conditions. The information submitted will allow FDA to identify pediatric uses of devices outside their approved or proposed indication for use in order to determine areas where further pediatric device development could be useful. This recommendation applies to applicants who submit the following applications:

1. Any request for a humanitarian device exemption submitted under section 520(m) of the FD&C Act;

2. Any premarket approval application (PMA) or supplement to a PMA submitted under section 515 of the FD&C Act;

3. Any product development protocol submitted under section 515 of the FD&C Act.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Description	Number of respondents	Annual frequency per response	Total annual responses	Hours per responses	Total hours
Uses outside approved indication	148	1	148	.5	74
Totals	148		148		74

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Respondents are permitted to submit information relating to uses of the device outside the approved or proposed indication if such uses are described or acknowledged in acceptable sources of readily available information. We estimate that 20 percent of respondents submitting information required by section 515A of the FD&C Act will choose to submit this information and that it will take 30 minutes for them to do so.

This draft guidance also refers to previously approved collections of information found in FDA regulations. The collections of information in part 814 (21 CFR part 814), subpart B have been approved under OMB control number 0910–0231 and the collections of information in part 814, subpart H have been approved under OMB control number 0910–0332.

Elsewhere in this issue of the **Federal Register**, FDA is publishing a proposed rule that requires, under section 515A of the FD&C Act, the submission of readily available information on any pediatric subpopulations that suffer from the disease or condition that the device is intended to treat, diagnose, or cure, and the number of affected pediatric patients.

V. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: February 12, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–03652 Filed 2–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Neonatal Subcommittee of the Pediatric Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Neonatal Subcommittee of the Pediatric Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on Friday, March 15, 2013, from 8 a.m. to 4 p.m.

Location: Sheraton Silver Spring Hotel, 8777 Georgia Ave., Silver Spring, MD 20910, 301–589–0800, *www.sheratonsilverspring.com.*

Contact Person: Walter Ellenberg, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 5154, Silver Spring, MD 20993, 301–796–0885, *walter.ellenberg@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The Food and Drug Administration Safety and Innovation Act identified the need to expand current pediatric science to include the neonatal population. On March 15, 2013, FDA's Neonatal Subcommittee of the Pediatric Advisory Committee will convene a non-voting session to establish an operational framework for the subcommittee as well as discuss and comment on nonspecific matters pertaining to neonatology. The subcommittee will also comment on ways to approach the challenges and identify different programmatic strategies for advancing the knowledge necessary to developing neonatal regulatory science.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before March 7, 2013. Oral presentations from the public will be scheduled between approximately 11 a.m. and 12 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 27, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 28, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Walter Ellenberg, 301–796–0885, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 12, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–03613 Filed 2–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: The National Health Service Corps Site Retention Assessment Questionnaire (OMB #)—New

The National Health Service Corps (NHSC) provides health professionals with loan repayment and scholarships in return for their service to underserved areas. The NHSC's mission is to improve access to primary care, which is supported by clinicians who remain in their sites well beyond their contracted periods of service. However, many sites are unaware of their influence and impact on clinician retention levels. The purpose of this project is to gather survey information from administrative officials at NHSC-approved sites that will guide NHSC initiatives and assist sites in improving their retention outcomes. The survey will ask site administrators to rate: (1) How difficult it is to retain clinicians; (2) their general attitudes about the feasibility of good retention and awareness of its principles; (3) their practices' current approaches to promoting retention; (4) various aspects of their practices' organizational culture and administrative style; and (5) their sites' interest in and preferred ways of learning how to bolster retention. Survey data will be gathered anonymously and presented in-aggregate, to promote administrators' participation and full disclosure.

The annual estimate of burden is as follows:

Instrument	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
NHSC Site Retention Assessment Questionnaire	7,000	1	7,000	0.507	3,549

Email comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 30 days of this notice.

Dated: February 8, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–03624 Filed 2–15–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Organ Transplantation; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Organ Transplantation (ACOT).

Date and Time: March 7, 2013, 10:00 a.m. to 4:00 p.m. Eastern Time.

Place: The meeting will be via audio conference call and Adobe Connect Pro.

Status: The meeting will be open to the public.

Purpose: Under the authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, and 42 CFR 121.12 (2000), ACOT was established to assist the Secretary in enhancing organ donation, ensuring that the system of organ transplantation is grounded in the best available medical science, and assuring the public that the system is as effective and equitable as possible, thereby, increasing public confidence in the integrity and effectiveness of the transplantation system. ACOT is composed of up to 25 members including the Chair. Members are serving as Special Government Employees and have diverse backgrounds in fields such as organ donation, health care public policy, transplantation medicine and surgery, critical care medicine, and other medical specialties involved in the identification and referral of donors, non-physician transplant professions, nursing, epidemiology, immunology, law and bioethics, behavioral sciences, economics and statistics, as well as representatives of transplant candidates, transplant recipients, organ donors, and family members.

Agenda: The Committee will hear presentations including those from the following ACOT Work Groups: Kidney Paired Donation; Research Barriers; and Alignment of CMS Regulatory Requirements with Organ Procurement and Transplantation Network and HRSA. Agenda items are subject to change as priorities indicate.

After Committee discussion, members of the public will have an opportunity to comment. Because of the Committee's full agenda and timeframe in which to cover the agenda topics, public comment will be limited. All public comments will be included in the record of the ACOT meeting. Meeting summary notes will be posted on the Department's donation Web site at *http://www.organdonor.gov/legislation/advisory.html#meetings.*

The draft meeting agenda will be posted on *www.blsmeetings.net/ACOTSPRING2013.* Those planning on participating in this meeting should register by visiting *www.blsmeetings.net/ACOTSPRING2013.* The deadline to register for this meeting is March 4, 2013. For all logical questions and concerns, please contact Brittany Irvine, Conference Planner, at *birvine@seamoncorporation.com* (or by phone at 301–577–0244).

The public can join the meeting by:

1. (Audio Portion) Calling the Conference Phone Number (888–995–9571) and providing the Participant Code (2244857); and

2. (Visual Portion) Connecting to the ACOT Adobe Connect Pro Meeting using the following URL: *https://hrsa.connectsolutions.com/adv_cmt/* (copy and paste the link into your browser if it does not work directly, and enter as a guest). Participants should call and connect 15 minutes prior to the meeting in order for logistics to be set up. If you have never attended an Adobe Connect meeting, please test your connection using the following URL: *https://hrsa.connectsolutions.com/common/help/en/support/meeting_test.htm* and get a quick overview by the following URL: *http://www.adobe.com/go/connectpro_overview.* Call 301–443–0437 or send an email to *ptongele@hrsa.gov* if you are having trouble connecting to the meeting site.

Public Comment: It is preferred that persons interested in providing an oral presentation submit a written request, along with a copy of their presentation to: Passy Tongele, Division of Transplantation (DoT), Healthcare Systems Bureau (HSB), Health Resources and Services Administration (HRSA), Room 12C–06, 5600 Fishers Lane, Rockville, Maryland 20857 or email at *ptongele@hrsa.gov.* Requests should contain the name, address, telephone number, email address, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative.

The allocation of time may be adjusted to accommodate the level of expressed interest. Persons who do not file an advance request for a presentation, but desire to make an oral statement, may request it at the time of the public comment period. Public participation and ability to comment will be limited to space and time as it permits.

FOR FURTHER INFORMATION CONTACT: Patricia Stroup, Executive Secretary, Healthcare Systems Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 12C–06, Rockville, Maryland 20857; telephone 301–443–1127.

Dated: February 12, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–03713 Filed 2–15–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Allogeneic Transplant Recipient Research Resource.

Date: March 7, 2013.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–435–0287, *Pintuccig@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 12, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03640 Filed 2–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Transcription.

Date: February 27, 2013

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call)

Contact Person: Richard A Currie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1108, MSC 7890, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 12, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03641 Filed 2–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; COBRE II Panel.

Date: March 13, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree Hotel Bethesda (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Robert Horowits, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18, Bethesda, MD 20892–6200, 301–594–6904, *horowitr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 12, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03634 Filed 2–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed below in advance of the meeting.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Newborn Screening Translational Research Network-3518.

Date: March 12, 2013.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To provide concept review of proposed concept review.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Executive Boulevard, Rockville, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 12, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03636 Filed 2–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose

confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Biomedical Instrumentation #1.

Date: March 12, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree by Hilton Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 1 Democracy Plaza, 6701 Democracy Boulevard, Room 1068, Bethesda, MD 20892, 301–435–0807, *slicelw@mail.nih.gov*.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Biomedical Instrumentation #2.

Date: March 13, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree by Hilton Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lee Warren Slice, Ph.D., Scientific Review Officer, National Institute of General Medical Sciences, National Institutes of Health, 1 Democracy Plaza, 6701 Democracy Boulevard, Room 1068, Bethesda, MD 20892, 301–435–0807, *slicelw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 12, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03635 Filed 2–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology, Developmental Biology, and Bioengineering.

Date: March 11–12, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alexander Gubin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7812, Bethesda, MD 20892, 301–435–2902, *gubina@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Mammalian Glycosyltransferases for Use in Chemistry and Biology.

Date: March 12–13, 2013.

Time: 7:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kathryn M Koeller, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–2681, *koellerk@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special: Pilot Clinical Studies in Nephrology and Urology.

Date: March 12–13, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Atul Sahai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, *sahaia@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and Related Research.

Date: March 12, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Jose H Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR10–276: Research in Biomedicine and Agriculture Using Agriculturally Important Domestic Species.

Date: March 12, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cell, Computational, and Molecular Biology.

Date: March 12, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 4300 Military Road, Washington, DC 20015.

Contact Person: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301–435–1024, *allen.richon@nih.hhs.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Kidney and Urology.

Date: March 12, 2013.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Bonnie L Burgess-Beusse, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; The Ancillary Studies to the ACCORD.

Date: March 12, 2013.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Olga A Tjurmina, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 451–1375, *ot3d@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Genetics, Informatics and Vision Studies.

Date: March 12, 2013.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Yvonne Bennett, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5199, MSC 7846, Bethesda, MD 20892, 301–379–3793, *bennetty@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 12, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03642 Filed 2–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute Of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel;''Vulvodynia.''

Date: March 6, 2013.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Express, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Dennis E. Leszczynski, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health, and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–2717, *leszcyd@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 12, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03638 Filed 2–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging And Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; NIH–NIBIB LRP Review Meeting (2013–08)

Date: April 5, 2013.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John K. Hayes, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Room 959, Bethesda, MD 20892, 301–451–3398, *hayesj@mail.nih.gov.*

Dated: February 12, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03639 Filed 2–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Heart Placental Axis Development and Prevention of Cardiovascular Birth Defects.

Date: March 12, 2013.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5B01, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Peter Zelazowski, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6902, *peter.zelazowski@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 12, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03637 Filed 2–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is

hereby given of a meeting of the Board of Scientific Counselors of the NIH Clinical Center.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the CLINICAL CENTER, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors of the NIH Clinical Center.

Date: March 4–5, 2013.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate the Department of Laboratory Medicine.

Place: National Institutes of Health, Building 10, 10 Center Drive, Room 4–2551, Bethesda, MD 20892.

Contact Person: David K. Henderson, MD, Deputy Director for Clinical Care, Office of the Director, Clinical Center, National Institutes of Health, Building 10, Room 6–1480, Bethesda, MD 20892, (301) 496–3515.

Dated: February 12, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03643 Filed 2–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Information: Main Study Design for the National Children's Study

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The *Eunice Kennedy Shriver* National Institute for Child Health and Human Development (NICHD), National Institutes of Health (NIH), is issuing a Request for Information (RFI) as part of the National Children's Study's (NCS) effort to engage communities and receive public input on specific design questions for incorporation into the Main Study Design of the NCS. The information obtained from RFI responses will be used to guide the construction of decision points or parameters for the Main Study design over the next 12–18 months. This RFI was preceded by a workshop with the National Academy of Sciences which posed similar questions. For background information on this workshop, please visit: *http://www.nationalchildrensstudy.gov/research/workshops/Pages/nationalacademyofsciencesworkshop.aspx.*

DATES: RFI Release Date is February 11, 2013. Response Close Date is February 25, 2013.

ADDRESSES: To respond by February 25, 2013, please submit comments via email to *NCS_RFI@mail.nih.gov.* Please include citations for any references or reports that can be used as source material.

FOR FURTHER INFORMATION CONTACT: Questions about this request for information may be directed to Kate Winseck, MSW, The National Children's Study, *Eunice Kennedy Shriver* National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Rm. 5C01, Bethesda, MD 20891, *NCS_RFI@mail.nih.gov*, 301–594–9147.

SUPPLEMENTARY INFORMATION: The National Children's Study is a congressionally mandated longitudinal birth cohort study intended to examine the effects of environmental exposures on the growth, development, and well-being of children. The NCS was mandated by the Children's Health Act of 2000 (Pub. L. 106–310). The Study consists of several components, including: a pilot or Vanguard Study, a Main Study focused on exposure-response relationships, substudies embedded in the Vanguard Study or the Main Study, and formative research projects. Data collection for the Vanguard Study began in January 2009. The design was changed in 2010 from a door-to-door household recruitment model to include an Alternate Recruitment Study (ARS). The ARS tested three different recruitment strategies that differed as to initial point of contact with potential participants—direct outreach, household-based through an NCS contractor, and provider-based through a licensed health care practitioner. Currently the NCS is testing, through Provider-Based Sampling Substudy, a further refinement of the provider-based sampling and recruitment using hospitals and birthing centers in addition to clinics and health care provider offices that are sampled.

Between the summer of 2011 and the fall of 2012, the NCS held a series of meetings with federal and non-federal statistical sampling experts and others to discuss the most effective sampling approach and design for the Main Study. The NCS had multiple separate discussions and consultations with additional individuals and organizations. Based on these extensive discussions and consultations, the NCS is proposing the use of a multi-stage probability sample for the Main Study. The NCS plans to enroll women through multiple entry points into the Main Study, such as perinatally at hospitals and birthing centers, and prenatally through prenatal care providers. Additionally, women whose children are already enrolled will be followed as a preconception sample of subsequent births. Lastly, about 10% of the total number of participants to be recruited would be set aside for recruitment of a convenience sample for populations with characteristics or exposures of particular scientific interest that would likely be underrepresented in the other strata.

The questions solicited in this RFI focus on how much the NCS should emphasize prenatal data collection, and what the NCS could anticipate gaining through the prospective data collection compared to retroactive data acquisition and the use of extant sources such as medical records, other databases and modeling. The issue is not whether to have a prenatal stratum, but what proportion of NCS resources should be devoted to the effort.

Responses to this RFI will be used to inform the Main Study design.

Proposed Main Study Design

1. Goals and Outcomes

The primary objective of the NCS is to examine relationships among exposures and outcomes that affect children's health and development. These factors include environmental exposures (with a broad definition of environment) and biological/genetic context. The NCS is not a study in a conventional sense. It will primarily function as a high quality data collection platform for researchers to explore hypotheses, access biospecimens and environmental samples, and analyze data. The Study's objectives stated in the Children's Health Act of 2000 are presented, along with the respective design considerations, in Table 1.

TABLE 1—THE MAIN STUDY OBJECTIVES AS STATED IN THE CHILDREN'S HEALTH ACT OF 2000 WITH DESIGN IMPLICATIONS

Study objectives	Sample and study design implications
Evaluate the effects of both chronic and intermittent exposures on child health and human development.	Visit schedule with an emphasis on documenting early exposures and events High retention of children is important to gather chronic and intermittent exposures.
Investigate basic mechanisms of developmental disorders and environmental factors.	Broad scope of data collection to determine the association and influence of exposures on outcomes supplemented and informed by formative research program.
Perform complete assessments of environmental influences on children's well-being.	Broad scope of exposure and outcome data collection supplemented by personal health records.
Gather data from diverse populations of children including prenatal exposures.	Need to recruit diverse population groups and capture prenatal exposures.
Consider health disparities among children	Ensure sampling of disadvantaged population groups (in terms of exposures, education, socioeconomic status, etc.).

Exposures and Outcomes

A non-exhaustive list of examples of exposures of potential interest includes:

- Natural products and industrial chemicals and byproducts in the air, water, soil, and commercial products;
- Pharmaceuticals used for therapy and in the environment;
- Ionizing and non-ionizing radiation
- Proximity to manufacturing, transportation, and processing facilities
- Living with animals, insects, plants, media and electronic device exposure,
- Noise
- Access to routine and specialty health care
- Structured and unstructured learning opportunities
- Diet and exercise
- Family and social network dynamics in a cultural and geographic context

A non-exhaustive list of examples of outcomes of potential interest includes:

- Premature birth
- Birth defects
- Growth and development
- Interpersonal relationships and bonding
- Inflammatory processes including allergies, asthma, and infections
- Epigenetic status
- Epilepsy and other neurologic disorders
- Cardiovascular function
- Cancer
- Multidisciplinary, multidimensional aspects of sensory input
- Autism and other neurodevelopmental disorders
- Learning and behavior
- Precursors and early signs of chronic diseases such as obesity, asthma, hypertension, and diabetes

Both public health impact (based on severity, as well as prevalence) on the overall population of children and scientific opportunity will inform the prioritization of mechanisms to be investigated. Examples of conditions of potential interest are shown in Table 2.

TABLE 2—THE PREVALENCE ESTIMATES PER 100,000 FOR SELECTED CHILDHOOD ILLNESSES*

Condition	Estimated prevalence per 100,000
Obese	17,000
Overweight	30,000
Premature Birth	12,500
Learning Disorders	5,000
Asthma	5,000
Birth Defects (aggregate)	3,000
Autism Spectrum Disorders (aggregate)	1,000–3,000
Schizophrenia	1,100
Congenital Heart Disease	800
Epilepsy	470
Childhood Cancers	320
Down Syndrome	125
Fragile X Syndrome	50

*Note that the legal federal threshold for a rare disease is a prevalence of about 64 per 100,000.

The prevalence of many of the conditions in Table 2 is possibly underestimated due to disparities in health and access to health care, limiting diagnosis. In addition, the prevalence presented represents only the level of each disease spectrum where formal evaluation and intervention are required. Children with less severe symptoms or with restricted access to health care may have health impacts from these conditions but not rise to a level captured by formal health care records.

Use of Exemplar or Illustrative Hypotheses

Because there is no universal and unambiguous definition of health, the NCS plans to employ investigation of a select number of exposure outcome illustrative hypotheses. Illustrative hypotheses will be prioritized with consideration for the public health importance of the outcome, availability of study visit measurement assessments, and sampling considerations such as sample matrix, specificity and stability of analytes, informative value, and options for other study visit measurement assessments to collect the same kind of information. Each exposure will be assigned to each outcome in a matrix table to generate illustrative hypotheses as a reference point to test many other hypotheses, including those that may not be envisioned at this time. For example, the appearance of a chronic inflammatory condition may result from an interaction between host characteristics that include genotype and exposures that may include diet, microbiome, and infection. Another example may be that exposure to nuts may have a beneficial effect in some people and may provoke a life threatening allergic response in others.

In this illustrative hypothesis paradigm, select exposures proposed as surrogates for additional exposures are: analysis of

- Heavy metals
- Pesticide residues
- Semi-volatile organic compounds, and
- High frequency sound in samples of
- Household dust
- Blood
- Urine, and
- Questionnaires on exposures including social environment.

The select outcomes proposed as surrogates for additional outcomes are:

- Linear growth rate and body mass index as a surrogate for general health
- Metabolic screen of serum total protein, blood urea nitrogen, cholesterol, iron, and calcium for nutrition and dietary assessment
- Frequency and duration of health system encounters for respiratory illness for pulmonary health, and
- Timing of standard neurodevelopmental landmarks and any deviation from adjusted trajectory for cognitive and social development.

Future research questions for the NCS are likely to be complex and involve multiple ''exposures'' from behavioral, environmental, and sociologic domains along with phenotypic information in relation to an outcome. The hypotheses that will be pertinent to the field 15 to 20 years from now are impossible to predict and therefore model. We propose this matrix as an exemplar, and will focus our Study design on the construction of a robust platform of data from a national probability sample.

2. Proposed Study Design

Target Population

A birth cohort of children born to mothers residing in the United States will be the primary target population. In addition, populations that might otherwise be underrepresented in the cohort on the basis of exposures, demographics, or other factors will be supplemented through targeted recruitment.

Study Sample Size

The proposed sample size will be about 100,000 live births.

Sampling and Recruitment Strategy

The NCS is proposing a multi-stage probability design for the Main Study. The rationale for using the proposed approach is the perception of differences among the characteristics of each recruited population that have analytic, logistical, or cost implications and the difficulty of identifying and enrolling a single generalizable sample of women, spanning from preconception to birth, in a practical manner. The design will be based on a national probability sample recruited through health care providers as the major component of the overall Study sample, with about a 10 percent of the total sample size set aside for targeted populations for addressing additional questions of scientific interest. A health care provider can be a hospital, birthing center, community based practitioner, or clinic.

The target population is children born to mothers in the United States during a predefined recruitment period. In order to sample this population we propose taking a probability sample (with probability proportionate to the number of deliveries) from a national listing of hospitals and birthing centers. From these sampled hospitals and birthing centers a second stage of the sampling design will be a listing of prenatal care providers that ''feed'' patients for delivery at the hospital. From these ''feeder'' providers, we will attempt to recruit women during their prenatal period. These women would be considered a prenatal stratum of the design (Figure 1).

Some women may not be enrolled prenatally. This may be because they did not seek prenatal care, or because they sought care from a provider not selected by the steps above. These women could be enrolled at the hospital at delivery, and would be considered a part of the birth stratum of the design.

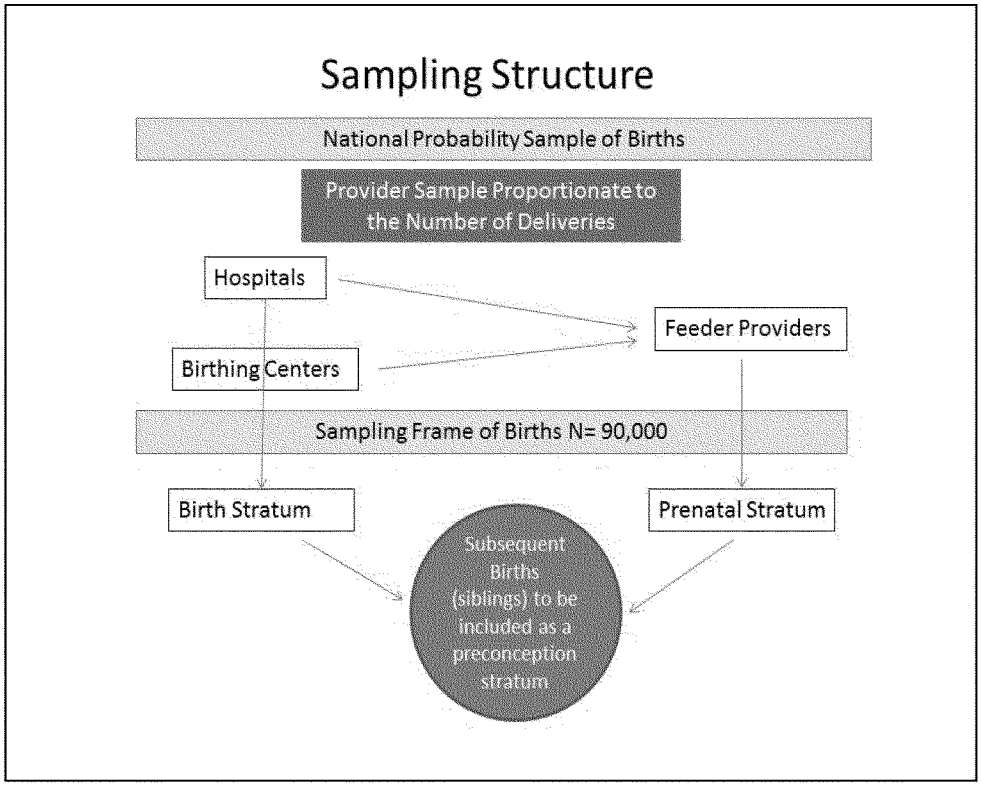

Figure 1. The strata of the Main Study probability sample, a national sample of births, with recruitment into birth, prenatal or preconception strata.

The most cost effective and simplest approach is to enroll women perinatally. About 98 percent of pregnant women in the United States deliver at hospitals or birthing centers, so the recruitment opportunity is greatest at birth. The proportion of the entire sample that can be enrolled prenatally and perinatally can be adjusted by the number of prenatal providers engaged, the number and duration of opportunities the design uses to enroll participants, and the logistics and efficiency of each location.

NCS field experience to date is mixed with regard to the cost, ease, accuracy, and cooperation of engaging community providers. One consideration is that women seek prenatal care at various times along the continuum of pregnancy with factors such as access, affordability, complex medical conditions, etc. influencing the composition and bias of any prenatal sample of women.

Regardless of the point of entry into the Study, women enrolled in the Study would be followed and any subsequent births of siblings could also be enrolled in the Study. These subsequent births, or higher birth order siblings, would be considered a preconception stratum of the design as there would be environmental assessments prior to the conception of the sibling as a result of already being enrolled in the Study.

What is important to note is that women recruited from health care providers will have different timing for their entry into the Study, and therefore, different amounts of information collected. Women recruited prenatally from their prenatal care provider will have the opportunity for prospective environmental assessments during the prenatal period. Women recruited through hospitals will have data collected at the birth visit that may be representative of a portion of the prenatal period (such as the collection of a vacuum cleaner bag of dust and questionnaire data), however this would be collected retrospectively and the inference period of the samples will vary. Study visits and assessments from the birth visit onward will be uniform across strata (Table 3).

Table 3. Summary of the data collection opportunities from the strata in the Main Study probability sample. The x's are a representation of the quantitative measure of the amount of information that can be gathered from the stratum at a particular point in the pre- or perinatal period, with xxx referring to the greatest amount of information.

OPPORTUNITIES TO OBTAIN PROSPECTIVE BIOLOGICAL SPECIMENS AND ENVIRONMENTAL SAMPLES

	Birth	3rd Trimester	2nd Trimester	1st Timester	Preconception
Point of Entry Into Study:					
Birth	XXX	.....	.....	.....	.....
Prenatal	XXX	XXX	XX	X	.....

OPPORTUNITIES TO OBTAIN PROSPECTIVE BIOLOGICAL SPECIMENS AND ENVIRONMENTAL SAMPLES—Continued

	Birth	3rd Trimester	2nd Trimester	1st Timester	Preconception
Sibling	XXX	XXX	XXX	XXX	XXX

The supplemental, or targeted studies, could be outside the cooperating institutions and would target populations that are underrepresented for any reason of scientific interest. An example of one of these cohorts would be a small sample of pregnant women residing in a community where pressure extraction for natural gas by hydraulic fracturing, or fracking, is taking place, and thus, the scientific interest lies in the environmental exposure. However, the area or number of births may be so small that the probability of selection into larger probability samples is low. These cohorts could be part of ancillary studies that would leverage the resources of the NCS. These targeted cohorts are not expected to be part of the larger probability samples described above, although probability-based approaches may be used. These cohorts are intended to be analyzed independently. We propose a scientific review process to screen proposals for targeted cohorts for alignment with the Study goals and prioritization with available resources.

a. Retention Strategy

The primary recruitment mechanism will be through health care providers, with the birth stratum recruited through hospitals and birthing centers, and the pregnancy stratum recruited through prenatal care providers who feed into the hospitals and birthing centers participating in the birth sample.

A key goal for the NCS Main Study is to obtain information on the health and developmental outcomes of participants as they move through childhood, adolescence, and early adulthood. To answer many of the potential scientific questions, it will be essential to retain a sample of sufficient size throughout the course of the Main Study to obtain robust longitudinal data. Determining expected rates of retention of participants through pregnancy to birth and beyond is a key part of the analytic plan for the Vanguard (Pilot) Study. Retention of participants from visit to visit will be carefully monitored.

Specifically, the NCS will use the following data from the Vanguard Study to monitor and plan retention strategies for the Main Study:

- The proportion of consented women who participate in at least one data collection Study visit,
- The proportion of women enrolled during pregnancy and participating in all data collection visits through the birth of a child who is enrolled into the Study,
- The proportion of women who receive a pre-birth data collection visit who also receive a successful birth visit, and
- The proportion of women enrolled during pregnancy and participating in all data collection visits of an enrolled child.

Retention challenges and solutions will likely vary by the nature of the visit, the length of time between visits, and the participant's stage in the Study cycle. Information collected from field data collectors represents a critical source of data from which to evaluate the feasibility and acceptability of the NCS Vanguard Study. Our ability to utilize these data to inform subsequent decisions requires coordination of several operational efforts, including hiring, training, and monitoring of field staff and the development of instruments, Study procedures, and case management documentation. For example, unit nonresponse—both initial and due to attrition—will be assessed systematically through the administration of a Nonrespondent Questionnaire. Additionally, our understanding of participant reactions to introducing the collection of biospecimens from infants will be informed by these multiple sources.

b. Study Visit Schedule

Both the Vanguard Study and the Main Study emphasize data collection early in pregnancy and early in child development because the largest knowledge gaps, and perhaps the most critical events, occur during those time periods. Consequently, pregnancy data collections are scheduled twice, if possible, prior to approximately 20 weeks gestation and once later in pregnancy. Data collections for children are scheduled at birth and every 3 months for the first year and every 6 months until 5 years old, for a total of 13 opportunities for data collection. Seven of the opportunities will be face-to-face encounters and may include biospecimen and environmental sample collection (*http://www.nationalchildrensstudy.gov/research/workshops/Pages/NCS-proposed-example-outcome-exposure-table.pdf*). The other six are remote data collections, typically by telephone interview. Subsequent data collections have not been scheduled, but will be on average about every other year until 21 years old, for a total of 8 additional data collection opportunities. In sum, 21 data collection opportunities per child are planned, but that may change based upon experience from the Vanguard phase, scientific opportunity, logistical factors, and resources available. Scheduling the majority of data collection within the first five years of life will address both the critical knowledge gaps, as well as maximize data collection while retention of participants is highest.

c. Study Visit Structure

Multiple modalities for data collection are under evaluation, with the current plan based on a core questionnaire model administered at every childhood visit plus supplemental modules to be administered to specific participants or subpopulations based on events and conditions such as age, developmental stage, and other triggers such as specific exposures or hospitalizations. While the core questionnaire is intended for all participants, supplemental modules may be administered on a missing by design basis, to leverage the large Study population and extend resources. In addition, the visit schedule is flexible, in that children will not have assessments administered precisely at a given age, but instead, within a window of several weeks around a particular age to improve compliance and to capture data across a range of specific ages. The module-based visit strategy should provide an opportunity to collect information about very specific exposures or outcomes while decreasing burden on respondents as all the modules will not be offered to all participants.

Information Requested

This RFI invites the scientific community, health professionals, and the general public to provide comments and suggestions on the following topics:

1. What should be the criteria for the stratum allocation decision between perinatal and prenatal enrollment and what evidence is available to support an assessment of each criterion? Examples include:

a. Recruitment costs, which include the costs of constructing the frame and the relative costs and efficiency of enrolling a participant;

b. Generalizability. What population is being represented?

c. Extent of exposures and other information that can be gathered. By definition, women who enter the study at the birth visit will have more limited data on prenatal exposures than participants enrolled during the prenatal period; while prenatal participants will have less information on prenatal exposures (and much less information on preconception exposures) than the subsequent births to already enrolled mothers or a separate preconception sample.

2. What should be the allocation of sample cases among the various strata? Assume that 10% of the sample is reserved for preconception and special studies; then, the allocation involves the remaining 90,000.

a. One option is the current proposal which is about a 50–50 split or 45,000 participants in each.

b. Another option is something like an 80–20 split allocated between birth and pregnancy, with the pregnancy sample used to form the basis for imputing prenatal exposures (after using medical records for the mothers to get as much prenatal information as possible).

c. Yet another option is like an 80–20 split allocated between pregnancy and birth, with the birth sample used to form the basis for providing generalizability to the data analysis.

d. One extreme could be the entire initial enrollment allocated to the birth stratum, with studies of prenatal and preconception exposures using primarily the subsequent births to originally enrolled mothers.

e. At the other extreme, most of the sample could be allocated to the prenatal stratum with a small birth sample consisting of women who did not receive any prenatal care and are enrolled at the hospital.

3. Given the challenge as stated in the Children's Health Act of 2000 to ''perform complete assessments of environmental influences on children's well-being,'' does the proposed visit schedule and environmental sample collection *(http://www.nationalchildrensstudy.gov/research/workshops/Pages/potential-environmental-exposures-of-interest.pdf)* balance the complex requirements? Specifically comment on the proportion of different types of data collection—primary environmental sample collection, use of biological specimens for biomarkers of exposure, and use of secondary sources including retrospective analysis for environmental exposures. Considerations may include:

a. Are the proposed measures (biomarkers, questionnaires, physical measures) the most appropriate to assess exposures of interest? If not, what measures should be taken?

b. On what decision points should the NCS prioritize exposure assessments?

Some examples of factors to consider are:

1. Potential public health impact of the outcome

2. Technical feasibility including timing of data collection with regard to potential developmental vulnerability

3. Scientific opportunity to address knowledge gaps and illuminate developmental pathways

This RFI is for planning purposes only and should not be construed as a solicitation for applications or proposals and/or as an obligation in any way on the part of the United States Federal government. The Federal government will not pay for the preparation of any information submitted, and/or for the government's use of that information. Additionally, the government cannot guarantee the confidentiality of the information provided.

Dated: February 7, 2013.

Alan E. Guttmacher,

Director, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH.

[FR Doc. 2013–03716 Filed 2–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Services Accountability Improvement System—(OMB No. 0930–0208)—Extension

This is an extension to the previously OMB approved instrument. The Services Accountability Improvement System (SAIS), which is a real-time, performance management system that captures information on the substance abuse treatment and mental health services delivered in the United States. A wide range of client and program information is captured through SAIS for approximately 600 grantees. Substance abuse treatment facilities submit their data on a monthly and even a weekly basis to ensure that SAIS is an accurate, up-to-date reflection on the scope of services delivered and characteristics of the treatment population. Over 30 reports on grantee performance are readily available on the SAIS Web site. The reports inform staff on the grantees' ability to serve their target populations and meet their client and budget targets. SAIS data allow grantees information that can guide modifications to their service array. Continued approval of this information collection will allow SAMHSA to continue to meet Government Performance and Results Act of 1993 (GPRA) reporting requirements that quantify the effects and accomplishments of its discretionary grant programs which are consistent with OMB guidance.

Note that there are no changes to the instrument or the burden hours from the previous OMB submission.

Based on current funding and planned fiscal year 2010 notice of funding announcements (NOFA), the CSAT programs that will use these measures in fiscal years 2013 through 2014 include: the Access to Recovery 2 (ATR2), ATR3, Addictions Treatment for Homeless; Adult Criminal Justice Treatment; Assertive Adolescent Family Treatment; HIV/AIDS Outreach; Office of Juvenile Justice and Delinquency Prevention—Brief Intervention and Referral to Treatment (OJJDP–BIRT); OJJDP-Juvenile Drug Court (OJJDP–JDC); Offender Re-entry Program; Pregnant and Postpartum Women; Recovery Community Services Program—Services; Recovery Oriented Systems of Care; Screening and Brief Intervention and Referral to Treatment (SBIRT), Targeted Capacity Expansion (TCE); TCE/HIV; Treatment Drug Court; and the Youth Offender Reentry Program. SAMHSA uses the performance measures to report on the performance of its discretionary services grant programs. The performance measures information is used by individuals at three different levels: the SAMHSA administrator and staff, the Center administrators and government project officers, and grantees

SAMHSA and its Centers will use the data for annual reporting required by GPRA and for NOMs comparing baseline with discharge and follow-up data. GPRA requires that SAMHSA's report for each fiscal year include actual

results of performance monitoring for the three preceding fiscal years. The additional information collected through this process will allow SAMHSA to report on the results of these performance outcomes as well as be consistent with the specific performance domains that SAMHSA is implementing as the NOMs, to assess the accountability and performance of its discretionary and formula grant programs.

Note that there are no changes to the instrument or the burden hours from the previous OMB submission.

ESTIMATES OF ANNUALIZED HOUR BURDEN [1]—CSAT GPRA CLIENT OUTCOME MEASURES FOR DISCRETIONARY PROGRAMS

Center/form/respondent type	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden	Added burden proportion [2]
Clients:						
Adolescents	3,900	4	15,600	.5	7,800	.34
Adults:						
General non ATR or SBIRT).	28,000	3	84,000	.5	42,000	.34
ATR	53,333	3	159,999	.5	80,000	.34
SBIRT [4] Screening Only	150,618	1	150,618	.13	19,580	0
SBIRT Brief Intervention	27,679	3	83,037	.20	16,607	0
SBIRT Brief Tx & Refer to Tx	9,200	3	27,600	.5	13,800	.34
Client Subtotal	272,730		520,854		179,787	
Data Extract [5] and Upload:						
Adolescent Records	44 grants	44 X 4	176	.18	32	
Adult Records:						
General (non ATR or SBIRT).	528 grants	70 X 3	210	.18	38	
ATR Data Extract	53,333	3	160,000	.16	25,600	
ATR Upload [6]	24 grants	3	160,000	1 hr. per 6,000 records.	27	
SBIRT Screening Only Data Extract.	9 grants	21,517 X 1	21,517	.07	1,506	
SBIRT Brief Intervention Data Extract.	9 grants	3,954 X 3	11,862	.10	1,186	
SBIRT Brief Tx&Refer to Tx Data Extract.	9 grants	1,314 X 3	3,942	.18	710	
SBIRT Upload [7]	7 grants		171,639	1 hr. per 6,000 records.	29	
Data Extract and Upload Subtotal.	53,856		529,382		29,134	
Total	326,586		1,050,236		208,921	

NOTES:

1. This table represents the maximum additional burden if adult respondents, for the discretionary services programs including ATR, provide three sets of responses/data and if CSAT adolescent respondents, provide four sets of responses/data.
2. Added burden proportion is an adjustment reflecting customary and usual business practices programs engage in (e.g., they already collect the data items).
3. Estimate based on 2010 hourly wave of $19.97 for U.S. workforce eligible from the Bureau of Labor Statistics
4. Screening, Brief Intervention, Treatment and Referral (SBIRT) grant program:

* 27,679 Brief Intervention (BI) respondents complete sections A & B of the GPRA instrument, all of these items are asked during a customary and usual intake process resulting in zero burden; and
* 9,200 Brief Treatment (BT) & Referral to Treatment (RT) respondents complete all sections of the GPRA instrument.

5. Data Extract by Grants: Grant burden for capturing customary and usual data.
6. Upload: all 24 ATR grants upload data.
7. Upload: 7 of the 9 SBIRT grants upload data; the other 2 grants conduct direct data entry.

Written comments and recommendations concerning the proposed information collection should be sent by March 21, 2013 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2013–03621 Filed 2–15–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the

Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Transformation Accountability Reporting System—(OMB No. 0930–0285) —Extension

The Transformation Accountability (TRAC) Reporting System is a real-time, performance management system that captures information on the substance abuse treatment and mental health services delivered in the United States. A wide range of client and program information is captured through TRAC for approximately 700 grantees. This request includes an extension of the currently approved data collection effort.

This information collection will allow SAMHSA to continue to meet the Government Performance and Results Act (GPRA) of 1993 reporting requirements that quantify the effects and accomplishments of its programs, which are consistent with OMB guidance. In order to carry out section 1105(a) (29) of GPRA, SAMHSA is required to prepare a performance plan for its major programs of activity. This plan must:

- Establish performance goals to define the level of performance to be achieved by a program activity;
- Express such goals in an objective, quantifiable, and measurable form;
- Briefly describe the operational processes, skills and technology, and the human, capital, information, or other resources required to meet the performance goals;
- Establish performance indicators to be used in measuring or assessing the relevant outputs, service levels, and outcomes of each program activity;
- Provide a basis for comparing actual program results with the established performance goals; and
- Describe the means to be used to verify and validate measured values.

In addition, this data collection supports the GPRA Modernization Act of 2010 which requires overall organization management to improve agency performance and achieve the mission and goals of the agency through the use of strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve the results achieved. Specifically, this data collection will allow CMHS to have the capacity to report on a consistent set of performance measures across its various grant programs that conduct each of these activities. SAMHSA's legislative mandate is to increase access to high quality substance abuse and mental health prevention and treatment services and to improve outcomes. Its mission is to improve the quality and availability of treatment and prevention services for substance abuse and mental illness. To support this mission, the Agency's overarching goals are:

- Accountability—Establish systems to ensure program performance measurement and accountability
- Capacity—Build, maintain, and enhance mental health and substance abuse infrastructure and capacity
- Effectiveness—Enable all communities and providers to deliver effective services

Each of these key goals complements SAMHSA's legislative mandate. All of SAMHSA's programs and activities are geared toward the achievement of these goals and performance monitoring is a collaborative and cooperative aspect of this process. SAMHSA will strive to coordinate the development of these goals with other ongoing performance measurement development activities.

The total annual burden estimate is shown below:

ESTIMATES OF ANNUALIZED HOUR BURDEN

CMHS client outcome measures for discretionary programs

Type of response	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden	Hourly wage cost	Total hour cost
Client-level baseline interview	15,681	1	15,681	0.48	7,527	[1]$15	$112,903
Client-level 6-month reassessment interview	10,637	1	10,637	0.367	3,904	15	58,557
Client-level discharge interview [2]	4,508	1	4,508	0.367	1,776	15	26,644
Client-level baseline chart abstraction [3]	2,352	1	2,352	0.1	235	15	3,528
Client-level reassessment chart abstraction [4]	8,703	1	8,703	0.1	870	15	13,055
Client-level discharge chart abstraction [5]	8,241	1	8,241	0.1	824	15	12,362
Client-level Subtotal [6]	.....	.....	.....	.....	15,137	15	227,048
Infrastructure development, prevention, and mental health promotion quarterly record abstraction	942	4	3,768	4	15,072	[7] 35	527,520
Total	16,623	.....	.....	.....	29,298	.....	885,135

[1] Based on minimum wage.
[2] Based on an estimate that 35 percent will leave the program annually, and it will be possible to conduct discharge interviews on 40 percent of those who leave the program.
[3] Based on 13 percent non-response for those eligible at baseline (18,033); baselines are required for all consumers served or an admin baseline for non-responders.
[4] Based on 40 percent non-response for those eligible for six-month reassessment.
[5] Based on 60 percent non-response for those discharged.
[6] This is the maximum burden if all consumers complete the baseline and periodic reassessment interviews.
[7] To be completed by grantee Project Directors, hence the higher hourly wage.

Written comments and recommendations concerning the proposed information collection should be sent by March 21, 2013 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2013–03622 Filed 2–15–13; 8:45 am]

BILLING CODE 4162–20–P

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of ACHP Quarterly Business Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation (ACHP) will meet.

Friday, March 1, 2013. The meeting will be held in the Room SR325 at the Russell Senate Office Building at Constitution and Delaware Avenues NE., Washington, DC at 8:30 a.m.

The ACHP was established by the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) to advise the President and Congress on national historic preservation policy and to comment upon federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The ACHP's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Defense, Housing and Urban Development, Commerce, Education, Veterans Affairs, and Transportation; the Administrator of the General Services Administration; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; a Native American; and eight non-federal members appointed by the President.

Call to Order—8:30 a.m.

I. Chairman's Welcome
II. Swearing in Ceremony
III. Secretary of the Interior's Historic Preservation Awards
IV. Chairman's Report
V. ACHP Management Issues
  A. ACHP FY 2013 and 2014 Budget
  B. Alumni Foundation Report
VI. Historic Preservation Policy and Programs
  A. ACHP Plan To Support the United Nations Declaration on the Rights of Indigenous Peoples
  B. Memorandum of Understanding Regarding Coordination and Collaboration for the Protection of Indian Sacred Sites
  C. Administration's Tribal Goals
  D. Planning for 50th Anniversary of the National Historic Preservation Act
  E. Building a More Inclusive Preservation Program—Civil War to Civil Rights Initiative
  F. Future Directions for the ACHP in Sustainability
  G. Rightsizing Task Force Report
  H. ACHP Legislative Agenda
  a. Amendments to the National Historic Preservation Act
  b. Recent Legislation Related to Historic Preservation
  I. Planning for 10th Anniversary of the Preserve America Program
VII. Section 106 Issues
  A. Government Accountability Office Report on Federal Historic Property Management
  B. Section 106 Issues in the Second Term: Administration Initiatives and Federal Budget Austerity
VIII. New Business
IX. Adjourn

The meetings of the ACHP are open to the public. If you need special accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., Room 803, Washington, DC, 202–606–8503, at least seven (7) days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., #803, Washington, DC 20004.

Dated: February 12, 2013.

John M. Fowler,

Executive Director.

[FR Doc. 2013–03674 Filed 2–15–13; 8:45 am]

BILLING CODE 4310–K6–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0049]

Eastern Great Lakes Area Maritime Security Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Solicitation for membership.

SUMMARY: This notice solicits applications for membership in the Area Maritime Security Committee, Eastern Great Lakes, and its five regional subcommittees: Northeast Ohio Region, Northwestern Pennsylvania Region, Western New York Region, Lake Ontario Region, and St. Lawrence Region.

DATES: Requests for membership should reach the U.S. Coast Guard Captain of the Port, Buffalo, on March 21, 2013.

ADDRESSES: Applications for membership should be submitted to the Captain of the Port Buffalo, Attention Regional Executive Coordinator, 1 Fuhrmann Boulevard, Buffalo, NY 14203–3189.

FOR FURTHER INFORMATION CONTACT: For questions about submitting an application, or about the Area Maritime Security Committee (AMSC) in general, contact Mr. Timothy Balunis, Planning Department, U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Boulevard, Buffalo, NY 14203–3189; 716–843–9559. For questions about a particular regional subcommittee contact: the Northeast Ohio Region Executive Coordinator, Mr. Peter Killmer, at 216–937–0136; the Northwestern Pennsylvania Region Executive Coordinator, Mr. Joseph Fetscher, at 216–937–0126; the Western New York Region Executive Coordinator, Mr. Timothy Balunis, at 716–843–9559; the Lake Ontario Region Executive Coordinator, Mr. Ralph Kring, at 315–343–1217; and the St Lawrence Region Executive Coordinator, Mr. Ralph Kring, at 315–343–1217.

SUPPLEMENTARY INFORMATION:

Authority

Section 102 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107–295) added section 70112 to Title 46 of the U.S. Code, and authorized the Secretary of the Department in which the Coast Guard is operating to establish Area Maritime Security Advisory Committees (AMSCs) for any port area of the United States. (See 33 U.S.C. 1226; 46 U.S.C. 70112; 33 CFR 1.05–1, 6.01; Department of Homeland Security Delegation No. 0170.1(97)). The MTSA includes a

provision exempting these AMSCs from the Federal Advisory Committee Act (FACA), Public Law 92–436, 86 Stat. 470 (5 U.S.C. App.2).

AMSC, Eastern Great Lakes Purpose

The AMSCs shall assist the Captain of the Port in the development, review, update, and exercising of the Area Maritime Security (AMS) Plan for their area of responsibility. Such matters may include, but are not limited to: identifying critical port infrastructure and operations; identifying risks (threats, vulnerabilities, and consequences); determining mitigation strategies and implementation methods; developing and describing the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied; and providing advice to, and assisting the Captain of the Port in developing and maintaining the AMS Plan.

AMSC Composition

The composition of an AMSC, including the AMSC, Eastern Great Lakes and its subcommittees, is controlled by 33 CFR 103.305. Accordingly, members may be selected from the Federal, Territorial, or Tribal government; the State government and political subdivisions of the State; local public safety, crisis management, and emergency response agencies; law enforcement and security organizations; maritime industry, including labor; other port stakeholders having a special competence in maritime security; and port stakeholders affected by security practices and policies. Also, members of the AMSC must have at least 5 years of experience related to maritime or port security operations.

AMSC, Eastern Great Lakes Vacancies

Currently, there are multiple vacancies on the AMSC, Eastern Great Lakes. Vacancies for each of the five regional subcommittees are as follows:

(1) Northeast Ohio Region (3 members): Executive Board member to serve as Chairperson of the regional subcommittee and concurrently as member of the AMSC, Eastern Great Lakes when so convened by the Federal Maritime Security Coordinator (FMSC); Executive Board member representing local MTSA-regulated (33 CFR Part 105) facilities of Northeast Ohio; and an Executive Board member representing the maritime (on-water) port harbormaster community of Northeast Ohio (e.g., qualified harbormasters operating in local ports of Vermilion, Lorain, Cleveland, Fairport Harbor, Ashtabula, Conneaut, and other local ports);

(2) Northwestern Pennsylvania Region: no openings;

(3) Western New York Region (1 member): Executive Board member representing local MTSA-regulated (33 CFR Part 104) vessels of Western New York;

(4) Lake Ontario Region: no openings; and

(5) St. Lawrence Region (2 members): Executive Board members to serve as Chairperson and Vice Chairperson of the regional subcommittee, and concurrently as members of the AMSC, Eastern Great Lakes when so convened by the FMSC.

Applying for AMSC Membership

Those seeking membership are not required to submit formal applications. Because we have an obligation to ensure that a specific number of members have the requisite maritime security experience, however, we encourage the submission of resumes that highlight experience in the maritime and security industries.

Applicants may be required to pass an appropriate security background check before appointment to the committee or one of its subcommittees. The term of office for each vacancy is 5 years. However, a member may serve one additional term of office. Members will not receive any salary or other compensation for their service on the AMSC. Applicants must register and remain active as Coast Guard HOMEPORT users if appointed.

In support of the policy of the Coast Guard on gender and ethnic nondiscrimination, we encourage qualified men and women and members of all racial and ethnic groups to apply. The Coast Guard values diversity; all the different characteristics and attributes of persons that enhance the mission of the Coast Guard.

Dated: January 29, 2013.

J.S. Imahori,

Commander, U.S. Coast Guard, Acting Captain of the Port, Buffalo.

[FR Doc. 2013–03696 Filed 2–15–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2013–0004]

Advisory Committee on Commercial Operations of Customs and Border Protection (COAC)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Advisory Committee on Commercial Operations of Customs and Border Protection (COAC) will meet on March 6, 2013, in Washington, DC. The meeting will be open to the public.

DATES: COAC will meet on Wednesday, March 6, 2013, from 1:00 p.m. to 5:00 p.m. EST. Please note that the meeting may close early if the committee has completed its business.

Registration: If you plan on attending, please register either online at *https://apps.cbp.gov/te_registration/index.asp?w=113* or by email to *tradeevents@dhs.gov,* or by fax to 202–325–4290 by close-of-business on March 4, 2013.

If you have completed an online on-site registration and wish to cancel your registration, you may do so at *https://apps.cbp.gov/te_registration/cancel.asp?w=113.* Please feel free to share this information with interested members of your organizations or associations.

ADDRESSES: The meeting will be held at Ronald Reagan Building in the Horizon Ballroom, 1300 Pennsylvania Avenue NW., Washington, DC 20229. All visitors to the Ronald Reagan Building must show a state-issued ID or Passport to proceed through the security checkpoint for admittance to the building.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection at 202–344–1661 as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the ''Agenda'' section below.

Comments must be submitted in writing no later than February 25, 2013, and must be identified by USCBP–2013–0004 and may be submitted by *one* of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Email: Tradeevents@dhs.gov.* Include the docket number in the subject line of the message.

• *Fax:* 202–325–4290.

• *Mail:* Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. Do not submit personal information to this docket.

Docket: For access to the docket to read background documents or comments received by the COAC, go to *http://www.regulations.gov.*

There will be two public comment periods held during the meeting on March 6, 2013. Speakers are requested to limit their comments to two (2) minutes or less to facilitate greater participation. Contact the individual listed below to register as a speaker. Please note that the public comment period for speakers may end before the time indicated on the schedule that is posted on the CBP Web page at the time of the meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229; telephone 202–344–1440; facsimile 202–325–4290.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. App. (Pub. L. 92–463). The COAC provides advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within DHS or the Department of the Treasury. This meeting starts the 13th Term of COAC and is the first meeting for some newly-appointed members.

Agenda

The COAC will hear from the following subcommittees on the topics listed below and then will review, deliberate, provide observations and formulate recommendations on how to proceed on those topics:

1. Discuss Statement of Work and Next Steps for the Trade Modernization Subcommittee which will address Centers of Excellence and Expertise (CEEs), the Automated Commercial Environment (ACE), Role of the Broker issues throughout the 13th Term.

2. Discuss Next steps regarding the One U.S. Government at the Border Subcommittee since the approval of the Master Principles Document on January 15, 2012.

3. Discuss Statement of Work and Next Steps for the Trade Enforcement and Revenue Collection Subcommittee which will address Revenue, Intellectual Property Rights and Antidumping/Countervailing Duties (AD/CVD) issues throughout the 13th Term.

4. Discuss the Statement of Work and Next Steps regarding the Trusted Trader subcommittee which will address Customs-Trade Partnership Against Terrorism (C–TPAT), Importer Self-Assessment (ISA) and Authorized Economic Operator (AEO) issues throughout the 13th Term.

5. Discuss the Statement of Work and Next Steps regarding the Global Supply Chain Subcommittee which will address Air Cargo Security and Land Border issues throughout the 13th Term.

6. Discuss the Statement of Work and Next Steps regarding the Exports Subcommittee.

Dated: February 13, 2013.

Maria Luisa O'Connell,

Senior Advisor for Trade, Office of Trade Relations.

[FR Doc. 2013–03760 Filed 2–15–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA–052537, LLCAD05000, L51010000.LVRWB11B4520.FX0000]

Notice of Availability of the Final Environmental Impact Statement for the Alta East Wind Project, Kern County, CA, and Proposed Land Use Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Proposed California Desert Conservation Area (CDCA) Plan Amendment/Final Environmental Impact Statement (EIS) for the Alta East Wind Project (Project), and by this notice is announcing its availability.

DATES: BLM planning regulations state that any person who meets the conditions set forth in the regulations may protest the BLM's proposed plan amendment. A person who meets those conditions and wishes to file a protest must file the protest within 30 days of the date that the Environmental Protection Agency publishes its notice of availability for the Project's final EIS in the **Federal Register.**

ADDRESSES: Copies of the Alta East proposed plan amendment/final EIS have been sent to affected Federal, State, and local government agencies and to other stakeholders. Copies of the proposed plan amendment/final EIS are also available for public inspection at the Ridgecrest Field Office, 300 S. Richmond Road, Ridgecrest, CA 93555, and the California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553–9046. Interested persons may also review the proposed plan amendment/final EIS at *http://www.blm.gov/ca/st/en/fo/cdd.html.* All protests must be in writing and mailed to one of the following addresses:

Regular Mail: BLM Director (210), Attention: Brenda Williams, P.O. Box 71383, Washington, DC 20024–1383.

Overnight Mail: BLM Director (210), Attention: Brenda Williams, 20 M Street SE., Room 2134LM, Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Jeffery Childers, telephone 951–697–5308; address BLM California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553–9046; email *jchilders@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Alta Windpower Development, LLC (AWD) has requested a right-of-way (ROW) authorization to construct, operate, maintain, and decommission the proposed 318-megawatt, wind-energy Project. The Project would be located on the north and south sides of State Route 58 in southeastern Kern County, California. The proposed project area is 3 miles northwest of the town of Mojave and 11 miles east of the city of Tehachapi. The project would include wind turbines, access roads, energy collection lines, and other ancillary facilities on 2,592 acres, of which 2,024

acres are on public land under the jurisdiction of the BLM and 568 acres are on private land under the jurisdiction of Kern County. The Project, if approved, would require approximately 418 acres of the private land portion of the Project site to be re-zoned to be consistent with the Kern County Zoning Ordinance Wind Energy Combining District.

The BLM's purpose and need for the Project is to respond to AWD's application for a ROW grant to construct, operate, maintain, and decommission a wind-energy facility on public lands in compliance with FLPMA, BLM ROW regulations, and other applicable requirements. The BLM will decide whether to grant, grant with modification, or deny a ROW on public lands to AWD for the proposed Project. The BLM is proposing to amend the CDCA Plan by designating the project area as either available or unavailable for wind-energy projects. The CDCA Plan (1980, as amended), while recognizing the potential compatibility of wind-energy generation facilities with other uses on public lands, requires that all sites proposed for power generation or transmission not already identified in the plan be considered through the plan amendment process. In order for the BLM to grant a ROW for this Project, the CDCA Plan would need to be amended.

In addition to the proposed action (106 turbines) and a no action alternative, the BLM is analyzing an alternative layout configuration and two reduced footprint (97 and 87 turbines) alternatives. The proposed plan amendment/final EIS also analyzes two ''no project'' alternatives that reject the Project but amend the CDCA Plan to find the project area either (1) Suitable for future wind energy generation projects; or (2) Unsuitable for future wind energy generation projects. The BLM has selected Alternative C (97 turbines) as the preferred alternative in the proposed plan amendment/final EIS.

The proposed plan amendment/final EIS evaluates the potential impacts of the Project and the cumulative effects on air quality and greenhouse gas emissions, biological resources including Golden Eagles and California Condors, special status species, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use, noise, recreation, traffic, visual resources, lands with wilderness characteristics, and areas with high potential for renewable energy development.

A Notice of Availability of the draft proposed plan amendment/EIS/environmental impact report (EIR) for the Project was published on June 29, 2012 followed by a BLM/Kern County joint public meeting on August 1, 2012 in Mojave, California. A Notice of Intent to prepare a plan amendment/EIS/EIR for the Project was published in the **Federal Register** on July 15, 2011 (76 FR 41817) followed by a joint public scoping meeting with Kern County in Mojave, California, on August 4, 2011. The County completed its California Environmental Quality Act (CEQA) review process and has already certified its EIR for the Project. For additional information about or copies of the Project's certified EIR, interested members of the public should contact Kern County. As a result of the County's certification of the EIR, the BLM is releasing its final EIS document as a NEPA document; it is no longer a joint NEPA/CEQA document.

Comments on the draft plan amendment/EIS/EIR received from the public and internal BLM review were considered and incorporated as appropriate into the proposed plan amendment/final EIS. Public comments resulted in the addition of clarifying text, but did not significantly change proposed actions or land use plan decisions analyzed here.

Instructions for filing a protest with the BLM Director regarding the proposed plan amendment/final EIS may be found in the ''Dear Reader'' Letter of the proposed plan amendment/final EIS and at 43 CFR 1610.5–2. Emailed and faxed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular or overnight mail postmarked by the close of the protest period. Under these conditions, the BLM will consider the emailed or faxed protest as an advance copy and it will receive full consideration. If you wish to provide the BLM with such advance notification, please direct faxed or emailed protests to the attention of the BLM protest coordinator at 202–245–0028 or *bhudgens@blm.gov.*

All protests must be in writing and mailed to the appropriate address, as set forth in the **ADDRESSES** section above.

Before including your phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us in your protest to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

Thomas Pogacnik,

Deputy State Director, California.

[FR Doc. 2013–03695 Filed 2–15–13; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12207; 2200–1100–665]

Notice of Inventory Completion: University of Washington, Department of Anthropology, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Washington, Department of Anthropology, has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the remains and associated funerary objects and any present-day Indian tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects may contact the Burke Museum acting on behalf of the University of Washington, Department of Anthropology. Disposition of the human remains and associated funerary objects to the Indian tribes stated below may occur if no additional requestors come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains and associated funerary objects should contact the University of Washington at the address below by March 21, 2013.

ADDRESSES: Dr. Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 685–3849.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the University of Washington, Department of Anthropology and in the physical custody of the Burke Museum. The human remains and associated funerary objects were removed from an unknown location, most likely in the state of Washington.

This notice is published as part of the National Park Service's administrative

responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Burke Museum and University of Washington professional staff in consultation with representatives of the Coeur D'Alene Tribe (previously listed as the Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho); Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Chehalis Reservation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; Cowlitz Indian Tribe; Jamestown S'Klallam Tribe; Kalispel Indian Community of the Kalispel Reservation; Lower Elwha Tribal Community (previously listed as the Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington); Lummi Tribe of the Lummi Reservation; Makah Indian Tribe of the Makah Indian Reservation; Muckleshoot Indian Tribe (previously listed as the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington); Nez Perce Tribe (previously listed as Nez Perce Tribe of Idaho); Nooksack Indian Tribe; Port Gamble Band of S'Klallam Indians (previously listed as the Port Gamble Indian Community of the Port Gamble Reservation, Washington); Puyallup Tribe of the Puyallup Reservation; Samish Indian Nation (previously listed as the Samish Indian Tribe, Washington); Skokomish Indian Tribe (previously listed as the Skokomish Indian Tribe of the Skokomish Reservation, Washington); Snoqualmie Indian Tribe (previously listed as the Snoqualmie Tribe, Washington); Spokane Tribe of the Spokane Reservation; Squaxin Island Tribe of the Squaxin Island Reservation; Stillaguamish Tribe of Indians of Washington (previously listed as the Stillaguamish Tribe of Washington); Suquamish Indian Tribe of the Port Madison Reservation; Swinomish Indians of the Swinomish Reservation of Washington; Tulalip Tribes of Washington (previously listed as the Tulalip Tribes of the Tulalip Reservation, Washington); Upper Skagit Indian Tribe; and the Wanapum Band of Priest Rapids, a non-Federally recognized Indian group. The following tribes with aboriginal territory in Washington State were also invited to consult, but did not participate: Hoh Indian Tribe (previously listed as the Hoh Indian Tribe of the Hoh Indian Reservation, Washington); Nisqually Indian Tribe (previously listed as the Nisqually Indian Tribe of the Nisqually Reservation, Washington); Quileute Tribe of the Quileute Reservation; Quinault Indian Nation (previously listed as the Quinault Tribe of the Quinault Reservation, Washington); Sauk-Suiattle Indian Tribe; and the Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington). Hereafter, all tribes listed in this section are referred to as ''The Consulted and Invited Tribes.''

History and Description of the Remains

At unknown dates, human remains representing, at minimum, eight individuals were removed from unknown sites most likely located in the state of Washington. The University of Washington, Department of Anthropology, houses a teaching collection of human remains, collected through various means and by many individuals over time, including from archaeological sites, coroners, and donations from the public. The remains of the eight individuals described in this notice exhibit severe intentional cranial modification, which is a common Native American practice seen throughout Washington. No known individuals were identified. The two associated funerary objects are one unmodified stone and one lot of shells, twigs, and roots.

Determinations Made by the University of Washington, Department of Anthropology

Officials of the University of Washington, Department of Anthropology, have determined that:

- Based on cranial morphology and dental traits, the human remains are Native American.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Coeur D'Alene Tribe (previously listed as the Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho); Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Chehalis Reservation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Cowlitz Indian Tribe; Hoh Indian Tribe (previously listed as the Hoh Indian Tribe of the Hoh Indian Reservation, Washington); Jamestown S'Klallam Tribe; Kalispel Indian Community of the Kalispel Reservation; Lower Elwha Tribal Community (previously listed as the Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington); Lummi Tribe of the Lummi Reservation; Makah Indian Tribe of the Makah Indian Reservation; Muckleshoot Indian Tribe (previously listed as the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington); Nez Perce Tribe (previously listed as Nez Perce Tribe of Idaho); Nisqually Indian Tribe (previously listed as the Nisqually Indian Tribe of the Nisqually Reservation, Washington); Nooksack Indian Tribe; Port Gamble Band of S'Klallam Indians (previously listed as the Port Gamble Indian Community of the Port Gamble Reservation, Washington); Puyallup Tribe of the Puyallup Reservation; Quileute Tribe of the Quileute Reservation; Quinault Indian Nation (previously listed as the Quinault Tribe of the Quinault Reservation, Washington); Samish Indian Nation (previously listed as the Samish Indian Tribe, Washington); Sauk-Suiattle Indian Tribe; Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation,Washington); Skokomish Indian Tribe (previously listed as the Skokomish Indian Tribe of the Skokomish Reservation, Washington); Snoqualmie Indian Tribe (previously listed as the Snoqualmie Tribe, Washington); Spokane Tribe of the Spokane Reservation; Squaxin Island Tribe of the Squaxin Island Reservation; Stillaguamish Tribe of Indians of Washington (previously listed as the Stillaguamish Tribe of Washington); Suquamish Indian Tribe of the Port Madison Reservation; Swinomish Indians of the Swinomish Reservation of Washington; Tulalip Tribes of Washington (previously listed as the Tulalip Tribes of the Tulalip Reservation, Washington); and the Upper Skagit Indian Tribe (hereafter

referred to as ''The Aboriginal Land Tribes'').

• Multiple lines of evidence, including treaties, Acts of Congress, and Executive Orders, indicate that the land from which the Native American human remains and the associated funerary object were removed is the aboriginal land of The Aboriginal Land Tribes.

• Other credible lines of evidence, indicate that the land from which the Native American human remains and the associated funerary object were removed is the aboriginal land of The Aboriginal Land Tribes; Confederated Tribes of the Warm Springs Reservation of Oregon; and the Wanapum Band of Priest Rapids, a non-Federally recognized Indian group.

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of eight individuals of Native American ancestry.

• Pursuant to 25 U.S.C. 3001(3)(A), the two objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Aboriginal Land Tribes; Confederated Tribes of the Warm Springs Reservation of Oregon; and the Wanapum Band of Priest Rapids, a non-Federally recognized Indian group. The Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Chehalis Reservation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; Puyallup Tribe of the Puyallup Reservation; Samish Indian Nation (previously listed as the Samish Indian Tribe, Washington); Stillaguamish Tribe of Indians of Washington (previously listed as the Stillaguamish Tribe of Washington); Suquamish Indian Tribe of the Port Madison Reservation; Tulalip Tribes of Washington (previously listed as the Tulalip Tribes of the Tulalip Reservation, Washington); Upper Skagit Indian Tribe; and the Wanapum Band of Priest Rapids, a non-Federally recognized Indian group, all of which belong to the Washington State Inter-Tribal Consortium, have come together to jointly claim the human remains and associated funerary objects. The Coeur D'Alene Tribe (previously listed as the Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho); Jamestown S'Klallam Tribe; Lummi Tribe of the Lummi Reservation; Skokomish Indian Tribe (previously listed as the Skokomish Indian Tribe of the Skokomish Reservation, Washington); and the Snoqualmie Indian Tribe (previously listed as the Snoqualmie Tribe, Washington) have stated their support for the disposition of the human remains and associated funerary objects to the Washington State Inter-Tribal Consortium.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects or any other Indian tribe that believes it satisfies the criteria in 43 CFR 10.11(c)(1) should contact Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 685–3849, before March 21, 2013. Disposition of the human remains and associated funerary objects to the Washington State Inter-Tribal Consortium may proceed after that date if no additional requestors come forward.

The University of Washington, Department of Anthropology is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: January 29, 2013.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–03629 Filed 2–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12080;2200–1100–665]

Notice of Inventory Completion: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Thomas Burke Memorial Washington State Museum (Burke Museum) has completed an inventory of human remains, in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the remains and any present-day Indian tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the Burke Museum. Disposition of the human remains to the Indian tribes stated below may occur if no additional requestors come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Burke Museum at the address below by March 21, 2013.

ADDRESSES: Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195–3010, telephone (206) 685–3849.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Burke Museum. The human remains were removed from an unknown location on the Olympic Peninsula, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Burke Museum professional staff in consultation with representatives of Hoh Indian Tribe (previously listed as the Hoh Indian Tribe of the Hoh Indian Reservation, Washington); Jamestown S'Klallam Tribe; Lower Elwha Tribal Community (previously listed as the Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington); Makah Indian Tribe of the Makah Indian Reservation; Port Gamble Band of S'Klallam Indians (previously listed as Port Gamble Indian Community of the Port Gamble Reservation, Washington); Quileute Tribe of the Quileute Reservation; Quinault Indian Nation (previously listed as the Quinault Tribe of the Quinault Reservation, Washington); Skokomish Indian Tribe (previously listed as the Skokomish Indian Tribe of the Skokomish Reservation, Washington); and the Suquamish Indian Tribe of the Port Madison Reservation (hereafter referred to as ''The Consulted Tribes'').

History and Description of the Remains

Around 1920, human remains representing, at minimum, one individual were removed from the Olympic Peninsula in Washington State by Paul Benton. No known individuals were identified. In 1940, the human

remains were given to the Burke Museum by Dwight Benton (Burke Accn. #3170). No associated funerary objects are present.

Determinations Made by the Burke Museum

Officials of the Burke Museum have determined that:

- Based on cranial morphology and museum accession documentation, the human remains are Native American.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission, the land from which the Native American human remains were removed is the aboriginal land of the Jamestown S'Klallam Tribe; Lower Elwha Tribal Community (previously listed as the Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington); Makah Indian Tribe of the Makah Indian Reservation; Port Gamble Band of S'Klallam Indians (previously listed as Port Gamble Indian Community of the Port Gamble Reservation, Washington); Quileute Tribe of the Quileute Reservation; Quinault Indian Nation (previously listed as the Quinault Tribe of the Quinault Reservation, Washington); and the Skokomish Indian Tribe (previously listed as the Skokomish Indian Tribe of the Skokomish Reservation, Washington).
- Multiple lines of evidence including Treaties, Acts of Congress and Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Hoh Indian Tribe (previously listed as the Hoh Indian Tribe of the Hoh Indian Reservation, Washington); Jamestown S'Klallam Tribe; Lower Elwha Tribal Community (previously listed as the Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington); Makah Indian Tribe of the Makah Indian Reservation; Port Gamble Band of S'Klallam Indians (previously listed as Port Gamble Indian Community of the Port Gamble Reservation, Washington); Quileute Tribe of the Quileute Reservation; Quinault Indian Nation (previously listed as the Quinault Tribe of the Quinault Reservation, Washington); and the Skokomish Indian Tribe (previously listed as the Skokomish Indian Tribe of the Skokomish Reservation, Washington) (hereafter referred to as ''The Aboriginal Land Tribes''). The Treaty of the Quinault River of 1855 was signed by representatives from the Hoh Indian Tribe (previously listed as the Hoh Indian Tribe of the Hoh Indian Reservation, Washington); Quileute Tribe of the Quileute Reservation; and the Quinault Indian Nation (previously listed as the Quinault Tribe of the Quinault Reservation, Washington). The Treaty of Neah Bay of 1855 was signed by representatives from Makah Indian Tribe of the Makah Indian Reservation. The Treaty of Point No Point of 1855 was signed by representatives from the Jamestown S'Klallam Tribe; Lower Elwha Tribal Community (previously listed as the Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington); Port Gamble Band of S'Klallam Indians (previously listed as Port Gamble Indian Community of the Port Gamble Reservation, Washington); and the Skokomish Indian Tribe (previously listed as the Skokomish Indian Tribe of the Skokomish Reservation, Washington).
- Other credible lines of evidence indicate that the land from which the Native American human remains were removed is the aboriginal land of The Aboriginal Land Tribes.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Aboriginal Land Tribes. As stated during consultation, the Lower Elwha Tribal Community intends to take the lead on repatriation. The Jamestown S'Klallam Tribe, Port Gamble Band of S'Klallam Indians, and the Skokomish Indian Tribe have stated their support for moving forward with repatriation to the Lower Elwha Tribal Community.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains or any other Indian tribe that believes it satisfies the criteria in 43 CFR 10.11(c)(1) should contact Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98115, telephone (206) 685–3849, before March 21, 2013. Disposition of the human remains to The Aboriginal Land Tribes may proceed after that date if no additional requestors come forward.

The Burke Museum is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: January 9, 2013.

Sherry Hutt,

Manager, National Native American Graves Protection and Repatriation Act Program.

[FR Doc. 2013–03649 Filed 2–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12208; 2200–1100–665]

Notice of Inventory Completion: National Guard Bureau/A7AN, Air National Guard, Joint Base Andrews, MD

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Guard Bureau, Air National Guard, Joint Base Andrews, MD, has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes, and has determined that there is a likely cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects may contact National Guard Bureau, Air National Guard, Joint Base Andrews, MD. Repatriation of the human remains to the Indian tribes stated below may occur if no additional claimants come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the National Guard Bureau, Air National Guard at the address below by March 21, 2013.

ADDRESSES: Melissa Mertz, Natural Resources Program Manager, Air National Guard NGB/A7AN Environmental Branch, 3501 Fetchet Ave., Joint Base Andrews, MD 20762, telephone (240) 612–8427.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the National Guard Bureau, Air National Guard, Joint Base Andrews, MD. The human remains and associated funerary objects were removed from Jefferson County, KY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25

U.S.C. 3003(d) (3). The determinations in this notice are the sole responsibility of the National Guard Bureau, Air National Guard. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by AMEC Environment and Infrastructure professional staff under a contract with the National Guard Bureau, Air National Guard, and in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation; Chickasaw Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Quapaw Tribe of Indians; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

In 1972 or 1973, human remains representing, at minimum, 96 individuals were removed from site 15JF267, the KYANG site, in Jefferson County, KY, during an authorized runway expansion project. The human remains were recovered from disarticulate burials (at minimum 43 individuals) as well as from formal interments (at minimum 53 individuals). No known individuals were identified. The 32 associated funerary objects are: 1 single bear, deer, and wolf tooth necklace containing drilled canines; 4 drilled canines; 6 bone awls; 9 polished or worked bone tools; 2 polished small mammal mandibles; 1 worked canine; 2 fish spine needles; 1 antler flaker; and 6 chert tools. The human remains and associated funerary objects date to the Middle and Late Archaic periods (B.C. 7000 to 3000).

Cultural affiliation of the collection can reasonably be traced historically between members of present-day Indian tribes and an identifiable earlier group. Based on archeological evidence, geographic location, and oral traditions, site 15JF267 is located within the traditional area of the Cherokee, Chickasaw, Quapaw, and Shawnee people. Today, these people are represented by the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation; Chickasaw Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Quapaw Tribe of Indians; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Determinations Made by the National Guard Bureau, Air National Guard

Officials of the National Guard Bureau, Air National Guard have determined that:

- Pursuant to 25 U.S.C. 3001 (9), the human remains described in this notice represent the physical remains of 96 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2)(A), the 32 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects and the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation; Chickasaw Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Quapaw Tribe of Indians; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Melissa Mertz, Natural Resources Program Manager, Air National Guard NGB/A7AN Environmental Branch, 3501 Fetchet Ave., Joint Base Andrews, MD 20762, telephone (240) 612–8427, before March 21, 2013. Repatriation of the human remains and associated funerary objects may proceed after that date if no additional claimants come forward.

The National Guard Bureau, Air National Guard is responsible for notifying the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation; Chickasaw Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Quapaw Tribe of Indians; Shawnee Tribe; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: January 29, 2013.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–03631 Filed 2–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12186; 2200–1100–665]

Notice of Inventory Completion: U.S. Department of Agriculture, Forest Service, Apache-Sitgreaves National Forests, Springerville, AZ, and the Field Museum of Natural History, Chicago, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture (USDA), Forest Service, Apache-Sitgreaves National Forests and the Field Museum of Natural History have completed an inventory of human remains in consultation with the appropriate Indian tribes, and have determined that there is a cultural affiliation between the human remains and present-day Indian tribes. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the USDA Forest Service Southwestern Region. Repatriation of the human remains to the Indian tribes stated below may occur if no additional claimants come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the USDA Forest Service Southwestern Region at the address below by March 21, 2013.

ADDRESSES: Dr. Frank E. Wozniak, NAGPRA Coordinator, Southwestern Region, USDA Forest Service, 333 Broadway Blvd. SE., Albuquerque, NM 87102, telephone (505) 842–3238.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remain under the control of the USDA, Forest Service, Apache-Sitgreaves National Forests, Springerville, AZ and in the custody of the Field Museum of Natural History, Chicago, IL. The human remains were removed from the Cosper Cliff Dwelling site, Greenlee County, AZ, a part of the Apache-Sitgreaves National Forests.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the USDA Apache-Sitgreaves National Forests professional staff in consultation with representatives of the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; and the Zuni Tribe of the Zuni Reservation, New Mexico (hereinafter referred to as ''The Tribes'').

History and description of the remains

In 1952, human remains representing, at minimum, one individual were removed by Dr. Paul Martin of the Field Museum of Natural History from Cosper Cliff Dwelling on the Apache-Sitgreaves National Forests, in Greenlee County, AZ. No known individual was identified. No associated funerary objects are present.

Based on material culture, architecture, and site organization, Cosper Cliff Dwelling has been identified as an Upland Mogollon site. Continuities of ethnographic materials, technology, and architecture indicate affiliation of Upland Mogollon sites with historic and present-day Puebloan cultures. Oral traditions presented by representatives of The Tribes support cultural affiliation with Upland Mogollon sites in this portion of east central Arizona.

Determinations made by the USDA, Forest Service, Apache-Sitgreaves National Forests

Officials of the USDA, Forest Service, Apache-Sitgreaves National Forests have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Frank E. Wozniak, NAGPRA Coordinator, Southwestern Region, USDA Forest Service, 333 Broadway Blvd. SE., Albuquerque, NM 87102, telephone (505) 842–3238 before March 21, 2013. Repatriation of the human remains to The Tribes may proceed after that date if no additional claimants come forward.

The USDA, Forest Service, Apache-Sitgreaves National Forests is responsible for notifying The Tribes that this notice has been published.

Dated: January 25, 2013.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–03627 Filed 2–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12187;2200–1100–665]

Notice of Inventory Completion: Grand Rapids Public Museum, Grand Rapids, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Grand Rapids Public Museum has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and a present-day Indian tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects may contact the Grand Rapids Public Museum. Repatriation of the human remains and associated funerary objects to the Indian tribe stated below may occur if no additional claimants come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains and associated funerary objects should contact the Grand Rapids Public Museum at the address below by March 21, 2013.

ADDRESSES: Marilyn Merdzinski, Director of Education & Interpretation, Grand Rapids Public Museum, 272 Pearl St. NW., Grand Rapids, MI 49501, telephone (616) 929–1801.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Grand Rapids Public Museum, Grand Rapids, MI. The human remains and associated funerary objects were removed from an unknown location in northern Tennessee.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by the Grand Rapids Public Museum professional staff in consultation with representatives of the Chickasaw Nation, the Eastern Band of Cherokee Indians, and the United Keetoowah Band of Cherokee Indians in Oklahoma. By letter to the Grand Rapids Public Museum in 2010, the Eastern Band of Cherokee Indians and the United Keetoowah Band of Cherokee Indians in Oklahoma deferred to any other tribe who may claim cultural affiliation.

History and Description of the Remains

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location in northern Tennessee. At an unknown date, the human remains and associated funerary objects were acquired by Dr. Ruth Herrick from an unknown individual. In 1974, the human remains and associated funerary objects were donated to the Grand Rapids Public Museum by bequest. No known individuals were identified. The 12 associated funerary objects are: 1 bark bundle, 1 lot of glass fragments, 1 polished stone, 1 sandstone artifact, 1 stone with red ocher adhering, 1 musket fragment, 1 lot of gun flints, 1 lot of musket balls, 1 metallic mineral, 1 lot of silver pins, 1 lot of textile fragments, and 1 lot of copper pendants, beads, glass, and buttons.

The determination to affiliate these human remains and associated funerary objects with the Chickasaw group is based on the following categories of evidence: geographical, ethnohistorical, archaeological, anthropological, oral traditions, historical, and collections documentation at the Grand Rapids Public Museum. Museum documentation indicates that the burial is Chickasaw and the associated funerary objects date the burial to sometime between the 17th and 19th centuries of the historic period. The Chickasaw tribe, today represented by the Chickasaw Nation, is known to have had an historic period presence in the area where the human remains and associated funerary objects were removed.

Determinations Made by the Grand Rapids Public Museum

Officials of the Grand Rapids Public Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 12 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Chickasaw Nation.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Marilyn Merdzinski, Director of Education & Interpretation, Grand Rapids Public Museum, 272 Pearl St. NW., Grand Rapids, MI 49501, telephone (616) 929–1801, before March 21, 2013. Repatriation of the human remains and associated funerary objects to the Chickasaw Nation may proceed after that date if no additional claimants come forward.

The Grand Rapids Public Museum is responsible for notifying the Chickasaw Nation, the Eastern Band of Cherokee Indians, and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: January 25, 2013.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–03632 Filed 2–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–11918; 2200–1100–665]

Notice of Intent To Repatriate a Cultural Item: Binghamton University, State University of New York, Binghamton, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Binghamton University, in consultation with the appropriate Indian tribes, has determined that a cultural item meets the definition of sacred object and repatriation to the Indian tribe stated below may occur if no additional claimants come forward. Representatives of any Indian tribe that believes itself to be culturally affiliated with the cultural item may contact Binghamton University.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the cultural item should contact Binghamton University at the address below by March 21, 2013.

ADDRESSES: Nina M. Versaggi, Public Archaeology Facility, Binghamton University, Binghamton, NY 13902–6000, telephone (607) 777–4786.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of Binghamton University that meets the definition of sacred object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural item. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item(s)

During the middle to late 1960s, the Anthropology Department at Binghamton University acquired a False Face mask made by an artist from the Six Nations, in Ontario, Canada. A typed index card accompanying the mask reads: ''Big lipped Grandfather, Onondaga Nation, Deer Clan, Six Nations Reservation—Ontario.'' The mask is carved wood with a black face with a red mouth, turned up at the corners, with a hole in the center. The mask face has a curved nose with holes and metal eye inlays surrounding center eyeholes. The face is framed with dark hair, and there are carved and etched lines on the face.

On March 11, 2003, Binghamton University hosted a consultation meeting for all Federally recognized tribes to review NAGPRA summaries as part of the process of determining cultural affiliation. A group of traditional representatives from the Cayuga Nation; Saint Regis Mohawk Tribe (previously listed as the St. Regis Band of Mohawk Indians of New York); Seneca Nation of Indians (previously listed as the Seneca Nation of New York); Seneca-Cayuga Tribe of Oklahoma; and Tuscarora Nation met privately after the open consultation. On July 17, 2012, a representative of the Onondaga Nation met with representatives of Binghamton University, and subsequently, the Onondaga Nation requested the repatriation of the mask.

Determinations Made by Binghamton University

Officials of Binghamton University have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred object and the Onondaga Nation.

Additional Requestors and Disposition

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred object should contact Nina M. Versaggi, Public Archaeology Facility, Binghamton University, Binghamton, NY 13902–6000, telephone (607) 777–4786 before March 21, 2013. Repatriation of the sacred object to the Onondaga Nation may proceed after that date if no additional claimants come forward.

Binghamton University is responsible for notifying the Cayuga Nation; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Oneida Nation of New York; Oneida Tribe of Indians of Wisconsin; Onondaga Nation; Saint Regis Mohawk Tribe (previously listed as the St. Regis Band of Mohawk Indians of New York); Seneca Nation of Indians (previously listed as the Seneca Nation of New York); Seneca-Cayuga Tribe of Oklahoma; Stockbridge Munsee Community, Wisconsin; Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York); and Tuscarora Nation that this notice has been published.

Dated: December 13, 2012.

Sherry Hutt,

Manager, National Native American Graves Protection and Repatriation Act Program.

[FR Doc. 2013–03654 Filed 2–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12142; 2200–1100–665]

Notice of Intent To Repatriate Cultural Items: Rochester Museum & Science Center, Rochester, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Rochester Museum & Science Center, in consultation with the appropriate Indian tribe, has determined that the cultural items listed meet the definition of sacred objects and objects of cultural patrimony and repatriation to the Indian tribe stated below may occur if no additional claimants come forward. Representatives of any Indian tribe that believes itself to be culturally affiliated with the cultural items may contact the Rochester Museum & Science Center.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the cultural items should contact the Rochester Museum & Science Center at the above address by March 21, 2013.

ADDRESSES: George C. McIntosh, Director of Collections, Rochester Museum & Science Center, 657 East Ave., Rochester, NY 14607, telephone (585) 697–1906.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate six cultural items in the possession of the Rochester Museum & Science Center that meet the definitions of sacred objects and objects of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

Traditional religious leaders from the Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York) have identified six wampum items as being needed for the practice of traditional Native American religions by present-day adherents. In the course of consultations with tribal NAGPRA representatives, it was shown that individuals who sold or donated the wampum items did not have the authority to alienate them to a third party or sell them directly to the Rochester Museum & Science Center. Museum documentation, supported by oral evidence presented during consultation, indicates that the following six wampum items are culturally affiliated with the Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York):

(1) Invitation wampum, tally stick with 11 notches cut into it with four attached strands of purple and white shell bead wampum, collected by James P. Ditmars, Geneva, NY and purchased by George S. Conover, AE145/27.89.8;

(2) Council wampum composed of three strands of white glass and purple and white shell beads collected by Arthur C. Parker on the Tonawanda Reservation, AE2050/30.376.22;

(3) ''Name Necklace'' wampum composed of a 34 inch-long single strand of predominantly purple with several white shell beads collected by Laura Parker Doctor on the Tonawanda Reservation, AE2051/29.288.2;

(4) Condolence wampum composed of 16 strands of purple and white shell beads, ''used by Iroquois council in raising up civil chiefs,'' collected by Everett R. Burmaster on the Tonawanda Reservation and purchased by Arthur C. Parker in 1934, AE2525/34.149.1;

(5) Council wampum composed of seven 18 inch-long strands of purple and white shell beads tied to a section of buckskin by a few pieces of red ribbon decorated with white glass beads, purchased from Robert Tahamont by Arthur C. Parker in 1935, and museum records state the wampum was from ''village of Big Kettle, descendant of Sappy Jones'' and ''[t]he string traveled from Jones Bridge to Mt Morris,'' AE2960/35.173.1; and

(6) Gaiwiyo wampum, composed of 11-inch strands of white and purple shell beads collected by Arthur C. Parker on the Tonawanda Reservation in 1934, and museum records state ''[u]sed by Indian Priest in preaching code of Handsome Lake,'' AE 2970/34.163.1.

Determination Made by the Rochester Museum & Science Center

Officials of the Rochester Museum & Science Center have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the six cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(3)(D), the six cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and objects of cultural patrimony and the Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York).

Additional Requestors and Disposition

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred objects and objects of cultural patrimony should contact George C McIntosh, Director of Collections, Rochester Museum & Science Center, 657 East Ave., Rochester, NY 14607, telephone (585) 697–1906 before March 21, 2013. Repatriation of the sacred objects and objects of cultural patrimony to the Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York) may proceed after that date if no additional claimants come forward.

The Rochester Museum & Science Center is responsible for notifying the Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York) that this notice has been published.

Dated: January 17, 2013.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–03660 Filed 2–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12188; 2200–1100–665]

Notice of Intent To Repatriate Cultural Items: Grand Rapids Public Museum, Grand Rapids, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Grand Rapids Public Museum, in consultation with the appropriate Indian tribe, has determined that the cultural items meet the definition of unassociated funerary objects and repatriation to the Indian tribe stated below may occur if no additional claimants come forward. Representatives of any Indian tribe that believes itself to be culturally affiliated

with the cultural items may contact the Grand Rapids Public Museum.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the cultural items should contact the Grand Rapids Public Museum at the address below by March 21, 2013.

ADDRESSES: Marilyn Merdzinski, Director of Education & Interpretation, Grand Rapids Public Museum, 272 Pearl St. NW., Grand Rapids, MI 49501, telephone (616) 929–1801.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Grand Rapids Public Museum that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item(s)

At an unknown date, one unassociated funerary object was removed from a mound at an unknown location in Kentucky and acquired by the Grand Rapids Public Museum from a source with the initials ''K.S.I.'' (likely Kent Scientific Institute, the former name of the Grand Rapids Public Museum). The object is a stone human effigy vessel that was identified in the museum records as a ''[w]aterbottle of sundried (probably Peruvian Indian make) clay for burial with dead S (W?), KY.'' Digital images of the object were reviewed by the Chickasaw Nation Preservation and Repatriation Department and a professor at Murray State University. It was determined that this vessel was identical to a human effigy vessel from Wickcliffe Mounds, KY, and likely affiliated with the Chickasaw Nation. In the Great Chickasaw Cession of 1818, lands were ceded in western Kentucky to the U.S. Government and traditional tribal hunting and trading routes covered a large portion of Kentucky. Therefore, it is conceivable that this stone human effigy vessel is culturally affiliated with the Chickasaw Nation.

In May and November of 1912, one lot of unassociated funerary objects was removed from an unknown location near Tupelo in Lee County, MS, by W. C. Wyman. At an unknown date, the lot of unassociated funerary objects was sold to Dr. Ruth Herrick by an unknown person. In 1974, the lot of unassociated funerary objects was bequeathed to the Grand Rapids Public Museum by Dr. Ruth Herrick. The lot of unassociated funerary objects is identified in the Grand Rapids Public Museum's records as ''large beads, glass, shell, and bone, early trade beads.'' Digital images of these objects were reviewed by the Chickasaw Nation Preservation and Repatriation Department, who determined that these objects are likely affiliated with the Chickasaw Nation.

At an unknown date, 1 lot of unassociated funerary objects was removed from an unknown location near Tupelo in Lee County, MS, by an unknown individual. At an unknown date, the lot of unassociated funerary objects was acquired by Dr. Ruth Herrick. In 1974, the lot of associated funerary objects was bequeathed to the Grand Rapids Public Museum by Dr. Ruth Herrick. The lot of unassociated funerary objects is identified in the Grand Rapids Public Museum's records as ''animal bone and shell beads, identified by donor and G. Olson.'' Digital images of these objects were reviewed by the Chickasaw Nation Preservation and Repatriation Department, who determined that these objects are likely affiliated with the Chickasaw Nation. Documented evidence of Chickasaw occupation in northern Mississippi supports cultural affiliation of the two lots of unassociated funerary objects from Lee County, MS, with the Chickasaw Nation.

Determinations Made by the Grand Rapids Public Museum

Officials of the Grand Rapids Public Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 3 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Chickasaw Nation.

Additional Requestors and Disposition

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Marilyn Merdzinski, Director of Education & Interpretation, Grand Rapids Public Museum, 272 Pearl St. NW., Grand Rapids, MI 49501, telephone (616) 929–1801 March 21, 2013. Repatriation of the unassociated funerary objects to the Chickasaw Nation may proceed after that date if no additional claimants come forward.

The Grand Rapids Public Museum is responsible for notifying the Chickasaw Nation that this notice has been published.

Dated: January 25, 2013.

Melanie O'Brien,

Acting Manager, National Native American Graves Protection and Repatriation Act Program.

[FR Doc. 2013–03655 Filed 2–15–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Smith Farm Enterprises, L.L.C.,* Civil Action No. 2:13–CV–00024–RGD–LRL, was lodged with the United States District Court for the Eastern District of Virginia on January 16, 2013.

This proposed Consent Decree concerns a complaint filed by the United States against Smith Farm Enterprises, L.L.C., pursuant to Section 309 of the Clean Water Act, 33 U.S.C. 1319, to obtain injunctive relief and recover civil penalties from the Defendant for alleged violations of the Clean Water Act by discharging pollutants into waters of the United States without and in violation of required Clean Water Act permits. The proposed Consent Decree resolves these allegations by requiring the Defendant to restore impacted areas, perform mitigation and pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to David J. Kaplan, Senior Attorney, United States Department of Justice, Environment and Natural Resources Division, P.O. Box 7611, Washington, DC 20044–7611, and refer to *United States* v. *Smith Farm Enterprises, L.L.C.,* DJ #90–5–1–7–19117.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Eastern District of Virginia, Walter E. Hoffman

United States Courthouse, 600 Granby Street, Norfolk, VA 23510. In addition, the proposed Consent Decree may be viewed at *http://www.justice.gov/enrd/Consent_Decrees.html.*

Cherie L. Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2013–03688 Filed 2–15–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Oil Pollution Act of 1990 and the Clean Water Act

On February 12, 2013, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Kansas in the lawsuit entitled *United States* v. *Coffeyville Resources Refining & Marketing L.L.C.,* Civil Action No. 11–CV–1291–JTM–JPO.

The United States of America, on behalf of the United States Environmental Protection Agency (EPA) and the United States Coast Guard, filed a Complaint in this action asserting the following claims against Defendant Coffeyville Resources Refining & Marketing, L.L.C. (''CRRM'' or '':Defendant'') that included claims (1) for penalties and injunctive relief under Sections 301 and 311 of the Clean Water Act (''CWA''), 33 U.S.C. 1311, 1321, relating to a June 30 and July 1, 2007 discharge of approximately 2,145 barrels of crude oil, diesel fuel, and oily water from several sources within CRRM's Coffeyville, Kansas petroleum Refinery; and (2) for reimbursement of removal costs, interest, administrative costs and attorneys' fees under Section 1002(a) of the Oil Pollution Act of 1990 (''OPA''), 33 U.S.C. 2702(a), incurred by the United States Oil Spill Liability Trust Fund (''OSLTF'') in responding to the 2007 oil discharge.

The proposed Consent Decree settles these claims. Under the settlement, CRRM will undertake measures designed to prevent future oil discharges and pay a penalty of $566,244. It will also reimburse the OSLTF $1,746,256 in response costs incurred with respect to the 2007 discharge.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Coffeyville Resources Refining & Marketing L.L.C.,* D.J. Ref. No. 90–5–2–1–07459/4. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email ...	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $8.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–03675 Filed 2–15–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Settlement Under the Clean Air Act

On February 13, 2013, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Kansas in the lawsuit entitled *United States* v. *Koch Nitrogen Company, LLC,* Civil Action No. 13-cv-02078.

The Complaint states claims on behalf of the United States against Koch Nitrogen Company, LLC, for its violations of the Risk Management Program requirements of the Clean Air Act and 40 CFR part 68 at three of its chemical processing facilities near Ft. Dodge, IA, Dodge City, KS, and Marshalltown, IA. Koch Nitrogen Company, LLC, will resolve its liability by paying a $380,000 civil penalty, and will receive a covenant-not-to-sue from the United States.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Koch Nitrogen Company, LLC,* D.J. Ref. No. 90–5–2–1–09892. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email ...	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $2.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert E. Maher, Jr.,

Acting Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–03733 Filed 2–15–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Federal Employees' Compensation; Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Claim for Reimbursement—Assisted Reemployment (CA–2231). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before April 22, 2013.

ADDRESSES: Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3233, Washington, DC 20210, telephone (202) 693–0701, fax (202) 693–1447, Email *Ferguson.Yoon@dol.gov.* Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. Background: The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA) under 5 U.S.C. 8101 et seq. Section 8104(a) of the FECA provides vocational rehabilitation services to eligible injured workers to facilitate their return to work. The costs of providing these vocational rehabilitation services are paid from the Employees' Compensation Fund. Annual appropriations language (currently in Pub. L. 109–289), provides OWCP with legal authority to use amounts from the Fund to reimburse private sector employers for a portion of the salary of reemployed disabled Federal workers they have hired through OWCP's assisted reemployment program. Information collected on Form CA–2231 provides OWCP with the necessary remittance information for the employer, documents the hours of work, certifies the payment of wages to the claimant for which reimbursement is sought, and summarizes the nature and costs of the wage reimbursement program for a prompt decision by OWCP. This information collection is currently approved for use through July 31, 2013.

II. Review Focus: The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions: The Department of Labor seeks extension of approval to collect this information to ensure timely and accurate payments to eligible employers for reimbursement claims.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Claim for Reimbursement-Assisted Reemployment.

OMB Number: 1240–0018.

Agency Number: CA–2231.

Affected Public: Business or other for-profit, Not-for-profit institutions.

Total Respondents: 42.

Total Annual responses: 168.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 84.

Frequency: Quarterly.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $82.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 12, 2013.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2013–03661 Filed 2–15–13; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Federal Employees' Compensation, Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Death Gratuity Forms (CA–40, CA–41, and CA–42). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before April 22, 2013.

ADDRESSES: Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–32331, Washington, DC 20210, telephone (202) 693–0701, fax (202) 693–1447, Email *Ferguson.Yoon@dol.gov.* Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. *Background:* The National Defense Authorization Act for Fiscal Year 2008, Public Law 110–181, was enacted on January 28, 2008. Section 1105 of Public Law 110–181 amended the Federal Employees' Compensation Act (FECA) creating a new 5 U.S.C. 8102a effective upon enactment. This section established a new FECA death gratuity

benefit for eligible beneficiaries of federal employees and Non-Appropriated Fund Instrumentality (NAFI) employees who die from injuries incurred in connection with service with an Armed Force in a contingency operation. 5 U.S.C. 8102a permits agencies to authorize retroactive payment of the death gratuity for employees who died on or after October 7, 2001, in service with an Armed Force in the theater of operations of Operation Enduring Freedom and Operation Iraqi Freedom. 5 U.S.C. 8102a also allows federal employees to vary the order of precedence of beneficiaries or to name alternate beneficiaries. Form CA–40 requests the information necessary from the employee to accomplish this variance. Form CA–41 provides the means for those named beneficiaries and possible recipients to file claims for those benefits and requests information from such claimants so that OWCP may determine their eligibility for payment. Furthermore, the statute and regulations require agencies to notify OWCP immediately upon the death of a covered employee. CA–42 provides the means to accomplish this notification and requests information necessary to administer any claim for benefits resulting from such a death. This information collection is currently approved for use through June 30, 2013.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. *Current Actions:* The Department of Labor seeks extension of approval to collect this information in order to carry out its responsibility to meet the statutory requirements of the Federal Employees' Compensation Act. The information contained in these forms is used by the Division of Federal Employees' Compensation to determine entitlement to benefits under the Act, to verify dependent status, and to initiate, continue, adjust, or terminate benefits based on eligibility criteria.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Death Gratuity Forms.

OMB Number: 1240–0017.

Agency Number: CA–40, CA–41, and CA–42.

Affected Public: Individuals or household; Federal Government.

Total Respondents: 272.

Total Responses: 272.

Form	Time to complete (in minutes)	Frequency of response	Number of respondents	Number of responses	Hours burden
CA–40 Individual Respondent	15	1	250	250	63
CA–41 Individual Respondent	15	1	11	11	3
CA–42 Agency Respondent	20	1	11	11	4
Totals			272	272	70

Estimated Total Burden Hours: 70.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $5.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 12, 2013.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2013–03659 Filed 2–15–13; 8:45 am]

BILLING CODE 4510–CH–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, February 21, 2013.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. NCUA's Rules and Regulations, Expanded Definition of ''Rural District'' for Field of Membership.

2. NCUA's Rules and Regulations, Permissible Investments—Treasury Inflation Protected Securities.

3. Quarterly Insurance Fund Report.

RECESS: 11:00 a.m.

TIME AND DATE: 11:15 a.m., Thursday, February 21, 2013.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Supplemental Standards of Ethical Conduct for Employees of the National Credit Union Administration. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. 2013–03846 Filed 2–14–13; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of National Council on the Humanities

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the National Council on the Humanities will meet for the following purposes: To advise the Chairman of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out his

functions; to review applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended) and make recommendations thereon to the Chairman; and to consider gifts offered to NEH and make recommendations thereon to the Chairman.

DATES: The meeting will be held on Thursday and Friday, March 7–8, 2013, each day from 9:00 a.m. until adjourned.

ADDRESSES: The meeting will be held at the Old Post Office Building, 1100 Pennsylvania Ave. NW., Washington, DC 20506. See **SUPPLEMENTARY INFORMATION** section for room numbers.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 1100 Pennsylvania Ave. NW., Room 529, Washington, DC 20506, or call (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the National Endowment for the Humanities' TDD terminal at (202) 606–8282. Please provide advance notice of any special needs or accommodations, including for a sign language interpreter.

SUPPLEMENTARY INFORMATION: The Committee meetings of the National Council for the Humanities will be held on March 7, 2013, as follows: The policy discussion session (open to the public) will convene at 9:00 a.m. until approximately 10:30 a.m., followed by the discussion of specific grant applications and programs before the Council (closed to the public) from 10:30 a.m. until adjourned.

Digital Humanities: Room 402
Education Programs: Room M–07
Preservation and Access: Room 415
Public Programs & Federal/State Partnership: Room 507
Research Programs: Room 315

In addition, the Jefferson Lecture Committee (closed to the public) will meet from 1:30 p.m. until 2:30 p.m. in Room 527.

The Plenary Session of the National Council for the Humanities will convene on March 8, 2013 at 9:00 a.m. in Room M–09. The agenda for the morning session (open to the public) will be as follows:

A. Minutes of the Previous Meeting
B. Reports
1. Introductory Remarks
2. Presentation by Karen Mittelman, Director of NEH's Division of Public Programs, on a new civil rights film project, ''Created Equal: America's Civil Rights Struggle''
3. Staff Report
4. Congressional Report
5. Budget Report
6. Reports on Policy and General Matters
a. Digital Humanities
b. Education Programs
c. Preservation and Access
d. Public Programs & Federal/State Partnership
e. Research Programs
f. Jefferson Lecture

The remainder of the Plenary Session will be for consideration of specific applications and therefore will be closed to the public.

As identified above, portions of the meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6) and 552b(c)(9)(b) of Title 5 U.S.C., as amended. The closed sessions will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: February 12, 2013.

Lisette Voyatzis,

Committee Management Officer.

[FR Doc. 2013–03756 Filed 2–15–13; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Astronomy and Astrophysics Advisory Committee #13883; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Astronomy and Astrophysics Advisory Committee (#13883).

Date and Time: March 1, 2013 12:00 p.m.–3:00 p.m. EST.

Place: Teleconference National Science Foundation, Room 390, Stafford I Building, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Dr. James Ulvestad, Division Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–8820.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies.

Agenda: To discuss the Committee's draft annual report due 15 March 2013.

Dated: February 13, 2013.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 2013–03691 Filed 2–15–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Public Availability of FY 2011 Service Contract Inventory Analysis, FY 2012 Service Contract Inventory, and FY 2012 Service Contract Inventory Planned Analysis for the National Transportation Safety Board

AGENCY: National Transportation Safety Board.

ACTION: Notice.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the National Transportation Safety Board is publishing this notice to advise the public of the availability of the FY 2011 Service Contract Inventory Analysis, the FY 2012 Service Contract Inventory, and the FY 2012 Service Contract Inventory Planned Analysis. The FY 2011 inventory analysis provides information on specific service contract actions that were analyzed as part of the FY 2011 inventory. The FY 2012 inventory provides information on service contract actions over $25,000 that were made in FY 2012. The inventory information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf*. The FY 2012 inventory planned analysis provides information on which functional areas will be reviewed by the agency. The National Transportation Safety Board has posted its FY 2012 inventory, FY 2012 planned analysis, and FY 2011 inventory analysis at the following link: *http://www.ntsb.gov/about/open.html*.

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Christopher Blumberg, Deputy Director, Office of Administration, NTSB at 202–314–6102 or *christopher.blumbeg@ntsb.gov*.

Dated: February 12, 2013.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2013–03668 Filed 2–15–13; 8:45 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2012–0263]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on November 23, 2012 (77 FR 70192).

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 664, General Licensee Registration.

3. *Current OMB approval number:* 3150–0198.

4. *The form number if applicable:* NRC Form 664.

5. *How often the collection is required:* Annually.

6. *Who will be required or asked to report:* General Licensees of the NRC who possess certain generally licensed devices subject to annual registration authorized pursuant to section 31.5 of Title 10 of the *Code of Federal Regulations* (10 CFR).

7. *An estimate of the number of annual responses:* 633.

8. *The estimated number of annual respondents:* 633.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 211 hours (633 annual responses × ⅓ hour).

10. *Abstract:* NRC Form 664 is used by NRC general licensees to make reports regarding certain generally licensed devices subject to annual registration. The registration program allows NRC to better track general licensees, so that they can be contacted or inspected as necessary, and to make sure that generally licensed devices can be identified even if lost or damaged. Also, the registration program ensures that general licensees are aware of and understand the requirements for the possession, use and disposal of devices containing byproduct material. Greater awareness helps to ensure that general licensees will comply with the regulatory requirements for proper handling and disposal of generally licensed devices and would reduce the potential for incidents that could result in unnecessary radiation exposure to the public and contamination of property.

The public may examine and have copied for a fee publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by March 21, 2013. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Chad Whiteman, Desk Officer, Office of Information and Regulatory Affairs (3150–0198), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Chad_S_Whiteman@omb.eop.gov* or submitted by telephone at 202–395–4718.

The NRC Clearance Officer is Tremaine Donnell, 301–415–6258.

Dated at Rockville, Maryland, this 12th day of February 2013.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2013–03723 Filed 2–15–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2012–0230]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on November 20, 2012 (77 FR 69661).

Information pertaining to the requirement to be submitted:

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 32—''Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material.''

3. *Current OMB approval number:* 3150–0001.

4. *The form number if applicable:* NRC Form 653, NRC Form 653A, and NRC Form 653B.

5. *How often the collection is required:* There is a one-time submittal of information to receive a certificate of registration for a sealed source and/or device. Certificates of registration for sealed sources and/or devices can be amended at any time. In addition, licensee recordkeeping must be performed on an on-going basis, and reporting of transfer of byproduct material must be reported every calendar year, and in some cases, every calendar quarter.

6. *Who will be required or asked to report:* All specific licensees who manufacture or initially transfer items containing byproduct material for sale or distribution to general licensees, or persons exempt from licensing, medical use product distributors to specific licensees, and those requesting a certificate of registration for a sealed source and/or device.

7. *An estimate of the number of annual responses:* 4,789 (3,559 NRC, 1,162 Agreement States and 68 third-party).

8. *The estimated number of annual respondents:* 959 (246 NRC licensees, registration certificate holders and 713 Agreement State licensees and registration certificate holders).

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 164,540 (16,346 reporting hours, 148,093 recordkeeping hours, and 101 third-party disclosures hours).

10. *Abstract:* Part 32 of Title 10 of the *Code of Federal Regulations* (10 CFR), establishes requirements for specific licenses for the introduction of byproduct material into products or materials and transfer of the products or materials to general licensees, or persons exempt from licensing, medical use product distributors to specific licensees, and those requesting a certificate of registration for a sealed source and/or device. It also prescribes requirements governing holders of the specific licenses. Some of the requirements are for information which must be submitted in an application for a certificate of registration for a sealed source and/or device, records which must be kept, reports which must be submitted, and information which must be forwarded to general licensees and persons exempt from licensing. As mentioned, 10 CFR part 32 also prescribes requirements for the issuance of certificates of registration (concerning radiation safety information about a product) to manufacturers or initial transferors of sealed sources and devices. Submission or retention of the information is mandatory for persons subject to the 10 CFR part 32 requirements. The information is used by the NRC to make licensing and other regulatory determinations concerning the use of radioactive byproduct material in products and devices.

The public may examine and have copied for a fee publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by March 21, 2013. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Chad Whiteman, Desk Officer, Office of Information and Regulatory Affairs (3150–0001), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Chad_S_Whiteman@omb.eop.gov* or submitted by telephone at 202–395–4718.

The NRC Clearance Officer is Tremaine Donnell, 301–415–6258.

Dated at Rockville, Maryland, this 12th day of February, 2013.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2013–03722 Filed 2–15–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2012–0245]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on November 14, 2012 (77 FR 69664).

1. *Type of submission, new, revision, or extension:* New.

2. *The title of the information collection:* Voluntary Reporting of Planned Topical Report Submissions.

3. *Current OMB approval number:* 3150–XXXX.

4. *The form number if applicable:* N/A.

5. *How often the collection is required:* Annually.

6. *Who will be required or asked to report:* Organizations submitting topical reports for review by the NRC staff.

7. *An estimate of the number of annual responses:* 10.

8. *The estimated number of annual respondents:* 10.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,000 hours

10. *Abstract:* The NRC collects planning information on topical report (TR) submissions from nuclear power plant owner groups (OGs), vendors, the Electric Power Research Institute, and the Nuclear Energy Institute (NEI) in accordance with agency guidance to process requests for reviews of TRs. A TR is a stand-alone report containing technical information about a nuclear power plant safety topic that can be submitted to the NRC for its review and approval. A TR improves the efficiency of the licensing process by allowing the staff to review a proposed methodology, design, operational requirements, or other safety-related subjects that will be used by multiple licensees following approval by referencing the approved TR. The TR provides the technical basis for a licensing action. Vendors have voluntarily submitted information related to planned submittals of TRs on an annual basis. As part of its ongoing efforts to improve the effectiveness and efficiency of the TR program, the agency requires up-to-date information on planned TR submittals.

The public may examine and have copied for a fee publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by March 21, 2013. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Chad Whiteman, Desk Officer, Office of Information and Regulatory Affairs (3150–XXXX), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Chad S Whiteman@omb.eop.gov* or submitted by telephone at 202–395–4718.

The NRC Clearance Officer is Tremaine Donnell, 301–415–6258.

Dated at Rockville, Maryland, this 12th day of February 2013.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2013–03721 Filed 2–15–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–57; NRC–2012–0103]

Notice of Issuance of Amendment to Facility License R–77 Incorporating a Decommissioning Plan for the Buffalo Materials Research Center Reactor at the State University of New York at Buffalo

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has approved the State University of New York at Buffalo (UB) decommissioning plan (DP) by amendment to the Facility License R–77 for the Buffalo Materials Research Center (BMRC) reactor.

FOR FURTHER INFORMATION CONTACT: Theodore Smith, Project Manager, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6721; email: *Theodore.Smith@nrc.gov*

ADDRESSES: Please refer to Docket ID NRC–2012–0103 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly-available, using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0103. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email at PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that the document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

I. Notice of Issuance

The BMRC reactor is located at the UB in Buffalo, NY. The reactor is a PULSTAR heterogeneous open-pool type water cooled reactor. The reactor operated from March 24, 1961 until June 23, 1994. During operation, the reactor used 6% enriched uranium dioxide fuel clad in zirconium-alloy. The UB submitted the DP for the reactor to the NRC in a letter dated February 17, 2012 (ADAMS accession no. ML120540187), as supplemented by letters dated June 20, 2012 (ADAMS accession no. ML121870132), September 21, 2012 (ADAMS accession no. ML122780454), and October 15, 2012 (ADAMS accession no. ML12297A237).

Pursuant to sections 20.1405 and 50.82(b)(5) of Title 10 of the *Code of Federal Regulations* (10 CFR), the NRC published a notice and solicitation of comments for this DP in the **Federal Register** entitled, ''License Amendment Request From The State University of New York, University of Buffalo Reactor Facility,'' on May 10, 2012 (77 FR 27487). No comments were received in response to this notice.

Subsequently, the NRC conducted a safety evaluation of the proposed DP (ADAMS accession no. ML12286A352). Based on this safety evaluation, the NRC concluded that, pursuant to 10 CFR 50.82(b)(5), the DP demonstrates that the proposed decommissioning will be performed in accordance with the Commission's regulations and will not be inimical to the common defense and security or to the health and safety of the public. Therefore, the Commission approved, by amendment to Facility License R–77, the DP subject to the safety evaluation.

The NRC is publishing this notice announcing the issuance of the amendment to Facility License R–77 pursuant to 10 CFR 2.106(a)(1), because a notice of proposed action regarding this amendment had been previously published.

Dated at Rockville, Maryland, this 11th day of February, 2013.

For the Nuclear Regulatory Commission.

Andrew Persinko,

Deputy Director Decommissioning and Uranium Recovery, Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials, and Environmental Management Programs.

[FR Doc. 2013–03762 Filed 2–15–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0032]

Biweekly Notice, Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

Background

Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 24, 2013, to February 6, 2013. The last biweekly notice was published on February 5, 2013 (78 FR 8195).

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and are publically available, by searching on *http://www.regulations.gov* under Docket ID NRC–2013–0032. You may submit comments by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0032. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*

• *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

• *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0032 when contacting the NRC about the availability of information regarding this document. You may access information related to this document by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0032.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* Documents may be viewed in ADAMS by performing a search on the document date and docket number.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2013–0032 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in Section 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedures'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention

at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in the NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC's guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding

officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the following three factors in 10 CFR 2.309(c)(1): (i) The information upon which the filing is based was not previously available; (ii) the information upon which the filing is based is materially different from information previously available; and (iii) the filing has been submitted in a timely fashion based on the availability of the subsequent information.

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*

Carolina Power and Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake County, North Carolina

Date of amendment request: November 29, 2012, as supplemented by letter dated January 3, 2013.

Description of amendment request: The amendment revised the Technical Specification (TS) surveillance requirements for addressing a missed surveillance, and is consistent with the U.S. Nuclear Regulatory Commission approved Revision 6 of Technical Specification Task Force (TSTF) Standard TSs Change Traveler TSTF–358, ''Missed Surveillance Requirements.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises the Technical Specifications (TS) Table 3.3–4, Functional Unit 9.b. Loss of Offsite Power, 6.9 kV (kilovolt) Emergency Bus Undervoltage—Secondary time delay values. The Loss of Offsite Power, 6.9 kV (kilovolt) Emergency Bus Undervoltage—Secondary instrumentation functions are not initiators to any accident previously evaluated. As such, the probability of an accident previously evaluated is not increased. The revised values continue to provide reasonable assurance that the Loss of Offsite Power, 6.9 kV (kilovolt) Emergency Bus Undervoltage—Secondary function will continue to perform its intended safety functions. As a result, the proposed change will not increase the consequences of an accident previously evaluated.

Concurrent with this proposed change, the Harris Nuclear Plant is revising its large break loss of coolant accident analysis. The revised analysis will be evaluated in accordance with 10 CFR 50.59 to confirm that a change to the technical specifications incorporated in the license is not required, and the change does not meet any of the criteria in Paragraph (c)(2) of that regulation. The revised analysis will employ the plant-specific methodology ANP–3011(P), Harris Nuclear Plant, Unit 1, Realistic Large Break LOCA Analysis, Revision 1, as approved by NRC Safety Evaluation dated May 30, 2012.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises the Technical Specification (TS) Table 3.3–4, Functional Unit 9.b. Loss of Offsite Power, 6.9 kV (kilovolt) Emergency Bus Undervoltage—Secondary time delay values. No new operational conditions beyond those currently allowed are introduced. This change is consistent with the safety analyses assumptions and current plant operating practices. This simply corrects the setpoint consistent with the accident analyses and therefore cannot create the possibility of a new or different kind of accident from any previously evaluated accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

The proposed change revises the Technical Specifications (TS) Table 3.3–4, Functional Unit 9.b. Loss of Offsite Power, 6.9 kV (kilovolt) Emergency Bus Undervoltage—Secondary time delay values. This proposed change implements a reduced time delay to isolate safety buses from offsite power if a Loss of Coolant Accident were to occur coincident with a sustained degraded voltage condition. This provides improved margin to ensure that emergency core cooling system pumps inject water into the reactor vessel within the time assumed and evaluated in the accident analysis.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David T. Conley, Manager—Senior Counsel—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Branch Chief: Jessie F. Quichocho.

Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3 (ONS1, ONS2, and ONS3), Oconee County, South Carolina

Date of amendment request: October 30, 2012.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to specify that TS 3.8.1 Required Action (RA) C.2.2.5 is cumulative over a 3-year time period for each Keowee Hydroelectric Unit (KHU). The two KHUs serve as the emergency power supply for ONS1, ONS2, and ONS3. RA C.2.2.5 currently allows a 45-day Completion Time once every 3 years to

restore an inoperable KHU to service. This revision would allow the 45-day Completion Time to be used as a cumulative allowance over 3 years, rather than once every 3 years. This Completion Time is used for major Keowee Hydroelectric Unit (KHU) maintenance.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment adds a note to the 45-day Completion Time for Technical Specification (TS) 3.8.1 Required Action (RA) C.2.2.5 to clarify the 45 days is cumulative for each Keowee Hydroelectric Unit (KHU) over a rolling 3-year time period rather than limited to one continuous 45-day time period. During the time that one KHU is inoperable for > 72 hours, a Lee Combustion Turbine (LCT) will be energizing both standby buses, two offsite power sources will be maintained available, and maintenance on electrical distribution systems will not be performed unless necessary.

There is no adverse impact on containment integrity, radiological release pathways, fuel design, filtration systems, main steam relief valve set points, or radwaste systems. No new radiological release pathways are created.

The consequences of an event occurring during the modified 45-day Completion Time, which clarifies the 45 days is cumulative for each KHU over a rolling 3-year time period, are the same as those that would occur during a continuous 45-day Completion Time. Duke Energy reviewed the Probabilistic Risk Assessment (PRA) to gain additional insights concerning the configuration of ONS with one KHU inoperable for one continuous 45 day period versus multiple time periods totally [totaling] 45-days. Based on this review, Duke Energy concluded that there is no change in risk.

Therefore, the probability or consequences of an accident previously evaluated is not significantly increased.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment adds a note to the 45-day Completion Time for TS 3.8.1 Required Action C.2.2.5 to clarify the 45 days is cumulative for each KHU over a rolling 3-year time period rather than limited to one continuous 45-day time period. During the time period that one KHU is inoperable and the 45-day Completion Time is being applied, the redundancy requirement for the emergency power source will be fulfilled by an LCT [Lee Combustion Turbine] and other compensatory measures required by TS 3.8.1 RA C.2.2.1, C.2.2.2, C.2.2.3, and C.2.2.4 will be in place to minimize electrical power system vulnerabilities.

The proposed change to the 45-day Completion Time does not involve a physical effect on the Oconee Units, nor is there any increased risk of an Oconee Unit trip or reactivity excursion. No new failure modes or credible accident scenarios are postulated from this activity.

Therefore, the possibility of a new or different kind of accident from any kind of accident previously evaluated is not created.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment adds a note to the 45-day Completion Time for TS 3.8.1 RA C.2.2.5 to clarify the 45 days is cumulative for each KHU over a rolling 3-year time period rather than limited to one continuous 45-day time period. During the time period that one KHU is inoperable and the 45-day Completion Time is being applied, the redundancy requirement for the emergency power source will be fulfilled by an LCT and other compensatory measures required by TS 3.8.1 RA C.2.2.1, C.2.2.2, C.2.2.3, and C.2.2.4 will be in place to minimize electrical power system vulnerabilities.

The proposed TS change does not involve: 1) a physical alteration of the Oconee Units; 2) the installation of new or different equipment; 3) operating any installed equipment in a new or different manner; 4) a change to any set points for parameters which initiate protective or mitigation action; or 5) any impact on the fission product barriers or safety limits.

Therefore, this request does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lara S. Nichols, Associate General Counsel, Duke Energy Corporation, 526 South Church Street—EC07H, Charlotte, NC 28202–1802.

NRC Branch Chief: Robert J. Pascarelli.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Units 3 and 4, Miami-Dade County, Florida

Date of amendment request: October 30, 2012.

Description of amendment request: The proposed amendments would decrease the time limits in certain actions and surveillance requirements of Technical Specification (TS) 3.5.2, ''ECCS [emergency core cooling system] Subsystems,'' and revise certain footnotes of TS 3.5.2 for clarity.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendment does not change or modify the design or operation of ECCS systems, subsystems, or components. The proposed amendment does not affect any precursors to any accident previously evaluated or do not adversely affect known mitigation equipment or strategies. The proposed amendment provides better assurance that the ECCS systems, subsystems, and components are properly aligned to support safe reactor operation consistent with the licensing and design basis requirements. The proposed changes addressing cascading of emergency power requirements are considered non-intent changes. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment provides better assurance that the ECCS systems, subsystems, and components are properly aligned to support safe reactor operation consistent with the licensing and design basis requirements. No new accident initiators are introduced directly or indirectly by the proposed changes. The changes addressing cascading of emergency power requirements are considered non-intent changes. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

No. The proposed amendment provides better assurance that the ECCS systems, subsystems, and components are properly aligned to support safe reactor operation consistent with the licensing and design basis requirements. The proposed changes correct deficiencies regarding TS LCO [limiting condition for operation] 3.5.2.d and TS SR [surveillance requirement] 4.5.2.a to assure ECCS availability is maintained within the assumptions of the safety analysis. Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: James Petro, Managing Attorney—Nuclear, Florida

Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Branch Chief: Jessie F. Quichocho.

Southern Nuclear Operating Company Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: December 7, 2012, and revised on January 25, 2013.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–91 and NPF–92 for Vogtle Electric Generating Plant (VEGP) Units 3 and 4 in regard to the Primary Sampling System (PSS) by: (1) replacing containment air return check valve PSS–PL–V024 with a solenoid-operated valve, and (2) redesigning the PSS inside-containment header and adding a PSS containment penetration.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Primary Sampling System (PSS) provides the safety-related function of preserving containment integrity by isolation of the PSS lines penetrating containment. The proposed amendment will enhance the ability of the PSS to perform its nonsafety-related function of providing the capability to obtain reactor coolant and containment atmosphere samples, while maintaining the ability of the PSS to perform its safety-related containment isolation function. The replacement of a check valve with a solenoid-operated containment isolation valve and the redesigned inside-containment header does not affect the safety-related function of isolating the PSS lines for containment isolation. The components added by this proposed activity, including tubing and the solenoid-operated containment isolation valve, are designed to the same codes and standards as other components addressed in the certified design that perform similar functions. The additional PSS containment penetration is a passive extension of containment and is identical in form, fit, and function to other PSS sampling containment penetrations currently addressed in the certified AP1000 plant design. The addition of a new PSS containment penetration will not change the maximum allowable leakage rate allowed by Technical Specifications and verified periodically in accordance with regulations. Furthermore, the proposed PSS configuration changes will neither impact any accident source term parameter or fission product barrier nor affect radiological dose consequence analysis.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The additional containment penetration is similar in form, fit, and function to the PSS penetrations that are currently described in the Updated Final Safety Analysis Report. Because the PSS changes use valve types, piping, and a containment penetration consistent with those already described in the Updated Final Safety Analysis Report, no new failure modes or equipment failure initiators are introduced by these changes. Accordingly, the proposed changes do not create any new malfunctions, failure mechanisms, or accident initiators.

Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The containment isolation function is not changed by this activity and is bounded by the existing design. The proposed PSS containment penetration is similar in form, fit, and function to other containment penetrations in similar applications in the current certified AP1000 plant design. The additional PSS containment penetration is an extension of containment, and, therefore, does not affect containment or its ability to perform its design function. The addition of PSS components, including the solenoid-operated containment isolation valve, the additional PSS containment penetration, and the associated tubing, do not exceed or alter a design basis or safety limit. Because the containment isolation function, containment leakage rate limit, potential containment leakage, and protective shielding are not changed by this activity and are bounded by the existing design, there is no change to any current margin of safety.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Acting Branch Chief: Lawrence Burkhart.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Generating Units 3 and 4, Miami-Dade County, Florida

Date of application for amendments: September 6, 2012.

Description of amendments request: The proposed amendments would reduce the minimum sodium tetraborate basket loading to 7500 pounds mass in order to lessen the long term sump pH profile, recover design margin, and facilitate sodium tetraborate basket loading and maintenance activities.

Date of publication of individual notice in the ***Federal Register:*** January 25, 2013 (78 FR 5505).

Expiration date of individual notice: February 25, 2013 (Public comments) and March 26, 2013 (Hearing requests).

Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant

hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr.resource@nrc.gov.*

Dominion Nuclear Connecticut, Inc., Docket No. 50–423, Millstone Power Station, Unit 3, New London County, Connecticut

Date of amendment request: April 2, 2012.

Description of amendment request: The proposed amendment would revise the Millstone Power Station, Unit 3 Technical Specification surveillance requirements for snubbers to conform to the Snubber Examination, Testing, and Service Life Monitoring Program Plan.

Date of issuance: February 6, 2013.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 257.

Renewed Facility Operating License No. NPF–49: Amendment revised the License and Technical Specifications.

Date of initial notice in ***Federal Register:*** May 29, 2012 (77 FR 31657).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 2013.

No significant hazards consideration comments received: No.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of application for amendment: January 9, 2012, as supplemented by letters dated July 30 and November 14, 2012.

Brief description of amendment: The amendment implements formatting changes to the Operating License and Technical Specifications (TSs) and the adoption of TSTF–GG–05–01, ''Writers Guide for Plant-Specific Improved Technical Specifications,'' Revision 1. In addition to these administrative changes, the amendment implements editorial changes which do not result in any changes to the technical or operating requirements.

Date of issuance: January 29, 2013.

Effective date: As of its date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 225.

Renewed Facility Operating License No. NPF–21: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** July 24, 2012 (77 FR 43374). The supplemental letters dated July 30 and November 14, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 29, 2013.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–247, Indian Point Nuclear Generating Unit 2, Westchester County, New York

Date of application for amendment: January 11, 2012, and as supplemented on January 24, 2013.

Brief description of amendment: The amendment revises Technical Specification Table 3.3.6–1, ''Containment Purge System and Pressure Relief Line Isolation Instrumentation,'' by changing the column titled ''ALLOWABLE VALUE'' to ''TRIP SETPOINT,'' and replacing the trip setpoint value of ''≤ 3 × background'' with a reference to the Offsite Dose Calculation Manual.

Date of issuance: January 29, 2013.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 272.

Facility Operating License No. DPR–26: The amendment revised the License and the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 1, 2012 (77 FR 25758). The January 24, 2013, supplement provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 29, 2013.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–286, Indian Point Nuclear Generating Unit 3, Westchester County, New York

Date of application for amendment: February 6, 2012, as supplemented on May 2 and August 6, 2012.

Brief description of amendment: The amendment approves changes to Updated Final Safety Analysis Report (UFSAR) Section 9.13, ''Backup Spent Fuel Pool Cooling System,'' to allow use of the backup spent fuel pool cooling system when the spent fuel pool cooling system is out of service.

Date of issuance: January 28, 2013.

Effective date: As of the date of issuance, and shall be implemented within 30 days. Implementation of the amendment shall also include revision of the UFSAR as described in the licensee's letter dated February 6, 2012, as supplemented by letters dated May 2 and August 6, 2012.

Amendment No.: 249.

Facility Operating License Nos. DPR–26 and DPR–64: The amendment revised the License and the UFSAR.

Date of initial notice in ***Federal Register:*** August 21, 2012 (77 FR 50537). The supplements dated May 2 and August 6, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 28, 2013.

No significant hazards consideration comments received: No.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: February 1, 2012, as supplemented by letters dated August 7 and November 20, 2012.

Brief description of amendment: The amendment revised Technical Specification (TS) 4.7.A.6.b.3 for performing the drywell-to- suppression chamber leak rate test during an operating cycle instead of during a refueling outage.

Date of Issuance: January 30, 2013.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 254.

Facility Operating License No. DPR–28: The amendment revised the Renewed Facility Operating License and the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 3, 2012 (77 FR 20074). The supplemental letters dated August 7 and November 20, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register.**

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated January 30, 2013.

No significant hazards consideration comments received: No.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: February 1, 2012, as supplemented by letter dated May 8, 2012.

Brief description of amendment: The amendment revised Technical Specification 3.3.B.3 for bypassing the Rod Worth Minimizer consistent with the allowances and required actions recommended in the Standard Technical Specifications, NUREG–1433, Revision 3.

Date of Issuance: January 30, 2013.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 255.

Facility Operating License No. DPR–28: The amendment revised the License and the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 17, 2012 (77 FR 22812). The supplemental letter dated May 8, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated January 30, 2013.

No significant hazards consideration comments received: No.

NextEra Energy Point Beach, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: August 16, 2012.

Brief description of amendments: The amendments revise Technical Specification 5.3, ''Facility Staff Qualifications,'' to clarify the required qualifications of the Operations Manager.

Date of issuance: January 29, 2013.

Effective date: As of the date of issuance and shall be implemented with 30 days from the date of issuance.

Amendment Nos.: 248 (Unit 1) and 252 (Unit 2).

Renewed Facility Operating License Nos. DPR–24 and DPR–27: Amendments revise the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** October 30, 2012 (77 FR 65725).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 29, 2013.

No significant hazards consideration comments received: No

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: April 30, 2012.

Description of amendment request: The amendment made changes to the Seabrook Emergency Plan associated with the initiating conditions involving a loss of safety system annunciation or indication in the control room. The amendment revises the emergency action levels (EALs) to include radiation monitoring indications within the aggregate of safety system indications that are considered when evaluating a loss of safety system indications rather than separate EALs.

Date of issuance: January 31, 2013.

Effective date: As of its date of issuance and shall be implemented within 90 days.

Amendment No.: 133.

Facility Operating License No. NPF–86: The amendment revised the License.

Date of initial notice in ***Federal Register:*** May 29, 2012 (77 FR 31661).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 31, 2013.

No significant hazards consideration comments received: No.

Northern States Power Company—Minnesota (NSPM), Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Date of application for amendment: May 8, 2012.

Brief description of amendment: The amendment revises the Technical Specification, Section 3.3.1.1, ''Reactor Protection System (RPS) Instrumentation,'' requirements pertaining to the Average Power Range Monitors (APRMs). Specifically, it allows a time period for restoration before declaring the channels inoperable when the absolute difference between the APRM channel power and calculated thermal power exceeds the limit of Technical Specification Surveillance Requirement 3.3.1.2.

Date of issuance: January 25, 2013.

Effective date: This license amendment is effective as of the date of its issuance, and shall be implemented within 90 days of issuance.

Amendment No.: 171.

Facility Operating License No. DPR–22. Amendment revises the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** July 24, 2012 (77 FR 43378).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 25, 2013.

No significant hazards consideration comments received: No.

Northern States Power Company—Minnesota, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of application for amendments: October 27, 2009, as supplemented by letters dated April 29, May 25, June 23, August 12, and December 17 of 2010; June 22, July 11, August 9, and December 8 of 2011; February 13, February 24, and September 13 of 2012.

Brief description of amendments: These amendments modify the Prairie Island Nuclear Generating Plant, Units 1

and 2, Technical Specifications (TSs) and licensing basis that supports a full scope implementation of the Alternative Source Term Methodology. The amendments also incorporate TS Task Force-490, ''Deletion of E-Bar Definition and Revision to RCS [Reactor Coolant System] Specific Activity Tech Spec,'' Revision 0.

Date of issuance: January 22, 2013.

Effective date: As of the date of issuance. The license conditions shall be implemented within 30 days. The balance of the license amendment shall be implemented in accordance with the terms of the license conditions.

Amendment Nos.: 206, 193.

Renewed Facility Operating License Nos. DPR–42 and DPR–60: Amendments revised the Facility Operating Licenses, Appendix B, and the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 6, 2010 (75 FR 17466). The supplemental letters contained clarifying information and did not change the initial no significant hazards consideration determination, and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 22, 2013.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Units 1 and 2, San Luis Obispo County, California

Date of application for amendment: June 1, 2011, as supplemented by letters dated February 6, May 31, August 6, and November 1, 2012.

Brief description of amendment: The amendments revised Technical Specifications (TS) 3.7.5, ''Auxiliary Feedwater (AFW) System,'' 3.6.6, ''Containment Spray and Cooling Systems,'' 3.8.1, ''AC Sources—Operating,'' 3.8.9, ''Distribution Systems—Operating,'' and Example 1.3–3 to clarify the operability of an AFW train during alternate alignments; establish conditions, required actions, and completion times when one steam supply to the turbine driven AFW pump is inoperable concurrent with an inoperable motor driven AFW train; and remove second completion times from TSs. These changes are consistent with the guidance provided in Technical Specifications Task Force (TSTF) Travelers TSTF–245, Revision 1, ''AFW Train Operable when in Service,'' TSTF–340, Revision 3, ''Allow 7 day completion Time for a Turbine-driven AFW Pump Inoperable,'' TSTF–412, Revision 3, ''Provide Actions for One Steam Supply to Turbine Driven AFW/EFW Pump Inoperable,'' and TSTF–439, Revision 2, ''Eliminate Second Completion Times Limiting Time From Discovery of Failure to Meet an LCO.''

Date of issuance: January 31, 2013.

Effective date: As of its date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: Unit 1–215; Unit 2–217.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** December 31, 2011 (76 FR 77569). The supplemental letters dated February 6, May 31, August 6, and November 1, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 31, 2013.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: July 28, 2012.

Brief Description of amendments: These amendments revise Limiting Condition for Operation (LCO) 3.1.H, ''Steam Generator (SG) Tube Integrity,'' Specification 6.4.Q, ''Steam Generator (SG) Program,'' and Specification 6.6.A.3, ''Steam Generator Tube Inspection Report,'' and include technical specification (TS) Bases changes that summarize and clarify the purpose of the TS in accordance with TS Task Force Traveler (TSTF) 510, ''Revision to Steam Generator Program Inspection Frequencies and Tube Sample Selection.''

Date of issuance: January 28, 2013.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 278, 278.

Renewed Facility Operating License Nos. DPR–32 and DPR–37: Amendments change the licenses and the technical specifications.

Date of initial notice in ***Federal Register:*** October 16, 2012 (77 FR 63351). The supplements dated November 6, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 28, 2013.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of application for amendment: July 30, December 13, 2012.

Brief description of amendment: The amendments revised the North Anna Technical Specifications (TSs) regarding steam generator tube inspections and reporting as described in TSTF–510, Revision 2, ''Revision to Steam Generator Program Inspection Frequencies and Tube Sample Selection.'' The changes are consistent with NRC-approved Industry TSTF Standard Technical Specifications change TSTF–510, Revision 2.

Date of issuance: January 28, 2013.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: Unit 1–269 and Unit 2–250.

Renewed Facility Operating License Nos. NPF–4 and NPF–7: Amendments changed the licenses and the technical specifications.

Date of initial notice in ***Federal Register:*** October 2, 2012 (77 FR 60155). The supplement dated December 13, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 28, 2013.

No significant hazards consideration comments received: No.

Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual notice of consideration of issuance of amendment, proposed no significant hazards consideration determination, and opportunity for a hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License or Combined License, as applicable, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr.resource@nrc.gov.*

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedures'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, and electronically on the Internet at the NRC's Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If there are problems in accessing the document, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to

rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

All documents filed in the NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social

security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Calvert Cliffs Nuclear Power Plant, LLC, Docket No. 50–318, Calvert Cliffs Nuclear Power Plant, Unit 2, Calvert County, Maryland

Date of amendment request: January 22, 2013, as supplemented by letter dated January 24, 2013.

Description of amendment request: The amendment revised Appendix C of the Renewed Facility Operating License by adding a license condition for Technical Specification 3.6.6, which will allow the ''B'' train of the Containment Cooling System to be considered operable with a single containment cooling fan and cooler by limiting the refueling water storage tank water temperature, containment average air temperature, containment air pressure, and saltwater inlet temperature for the period from January 26, to February 17, 2013.

Date of issuance: January 25, 2013.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 280.

Renewed Facility Operating License No. DPR–69: Amendment revised the License and Appendix C.

Public comments requested as to proposed no significant hazards consideration (NSHC): No. The Commission's related evaluation of the amendment, finding of emergency circumstances, state consultation, and final NSHC determination are contained in a safety evaluation dated January 25, 2013.

Attorney for licensee: Steven L. Miller, General Counsel, Constellation Energy Nuclear Group, LLC, 100 Constellation Way, Suite 200c, Baltimore, MD 21202.

NRC Branch Chief: George Wilson.

Dated at Rockville, Maryland, this 8th day of February 2013.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–03582 Filed 2–15–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0001]

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of February 18, 25, March 4, 11, 18, 25, 2013.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of February 18, 2013

Wednesday, February 20, 2013

12:55 p.m. Affirmation Session (Public Meeting) (Tentative)

NextEra Energy Seabrook, LLC (Seabrook Station), New England Coalition and Friends of the Coast's Notice, and Supporting Brief, of Appeal of ASLBP No. 10–906–02–LR–BD01 to NextEra Energy Seabrook, LLC (Nov. 19, 2012) (Tentative).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

1:00 p.m. Briefing on Uranium Recovery (Public Meeting) (Contact: Bill von Till, 301–415–0598).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Thursday, February 21, 2013

9:30 a.m. Briefing on the Threat Environment Assessment (Closed—Ex. 1).

Week of February 25, 2013—Tentative

There are no meetings scheduled for the week of February 25, 2013.

Week of March 4, 2013—Tentative

There are no meetings scheduled for the week of March 4, 2013.

Week of March 11, 2013—Tentative

There are no meetings scheduled for the week of March 11, 2013.

Week of March 18, 2013—Tentative

There are no meetings scheduled for the week of March 18, 2013.

Week of March 25, 2013—Tentative

There are no meetings scheduled for the week of March 25, 2013.

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* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *kimberly.meyer-chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *darlene.wright@nrc.gov.*

Dated: February 13, 2013.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2013–03845 Filed 2–14–13; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2013–50; Order No. 1655]

International Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning a successor International Reply Service Competitive Contract 3 Negotiated Service Agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 20, 2013.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On February 11, 2013, the Postal Service filed a notice pursuant to 39 CFR 3015.5 announcing that it has entered into an additional International Business Reply Service (IBRS) Competitive Contract 3 negotiated service agreement (Agreement).[1] It seeks to have the Agreement included within the existing IBRS Competitive Contract 3 product on grounds of functional equivalence to the baseline agreement filed in Docket No. CP2011–59.[2] Notice at 3–4.

II. Contents of Filings

Agreement. The Postal Service states that the Agreement is the successor to the agreement included in the IBRS Competitive Contract 3 product in Docket No. CP2012–16. *Id.* at 3.

The Postal Service filed the following material in conjunction with its Notice, along with public (redacted) versions of supporting financial information:

- Attachment 1—a redacted copy of the Agreement;
- Attachment 2—a certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 08–24; and
- Attachment 4—an application for non-public treatment of materials filed under seal.

Functional equivalency. The Postal Service asserts that the Agreement is functionally equivalent to the baseline agreement filed in Docket No. CP2011–59 because it shares similar cost and market characteristics and meets criteria in Governors' Decision No. 08–24 concerning attributable costs. *Id.* at 3–4. The Postal Service further asserts that the functional terms of the Agreement and the baseline agreement are the same and the benefits are comparable. *Id.* at 4. It states that prices offered under the Agreement may differ due to postage commitments and when the Agreement is signed (due to updated costing information), but asserts that these differences do not alter the functional equivalency of the Agreement and the baseline agreement. *Id.* at 4–5. The Postal Service also identifies differences between the terms of the two agreements, but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.[3] *Id.*

III. Notice of Proceeding

The Commission establishes Docket No. CP2013–50 for consideration of matters raised by the Postal Service's Notice. Interested persons may submit comments on whether the Agreement is consistent with the requirements of 39 CFR 3015.5 and the policies of 39 U.S.C. 3632 and 3633. Comments are due no later than February 20, 2013. The public portions of this filing can be accessed via the Commission's Web site, *http://www.prc.gov.* Information on how to obtain access to material filed under seal appears in 39 CFR 3007.50.

The Commission appoints James F. Callow to serve as Public Representative in the captioned proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2013–50 for consideration of the matters raised by the Postal Service's Notice.

2. Comments by interested persons in this proceeding are due no later than February 20, 2013.

3. Pursuant to 39 U.S.C. 505, the Commission appoints James F. Callow to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2013–03662 Filed 2–15–13; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service Filing of a Functionally Equivalent International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, February 11, 2013 (Notice).

[2] *See* Docket Nos. MC2011–21 and CP2011–59 (based on Governors' Decision No. 08–24), Order No. 684, Order Approving International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, February 28, 2011.

POSTAL SERVICE

Notice of Availability: Beta Test of Electronic Product Fulfillment for Addressing and Delivery Management Products

AGENCY: Postal Service.

ACTION: Notice.

SUMMARY: The National Customer Support Center (NCSC) is seeking current National Change of Address Link (NCOA®), Delivery Point Verification (DPV®), Delivery Sequence File, Second Generation (DSF®), and Address Matching System-Application Program Interface (AMS API) licensees to test a beta web service that allows the electronic download of these products through the USPS® Electronic Product Fulfillment (EPF) Web site.

DATES: Interested licensees should submit requests for participation to *ncoalink@usps.gov* on or before March 15, 2013.

ADDRESSES: Interested licensees may direct questions or requests for additional information to *ncoalink@usps.gov* to: Mr. Charles B. Hunt, Program Manager, Licensing Group, Address Management, U.S. Postal Service, 225 N Humphreys Blvd. Ste. 501, Memphis, TN 38188–1001.

FOR FURTHER INFORMATION CONTACT: Charles B. Hunt at (901) 681–4651, or Angela D. Lawson at (901) 681–4458.

SUPPLEMENTARY INFORMATION: The Postal Service is continuing its efforts to minimize production costs, and provide a convenient and more rapid method for postal licensees to obtain their data products, by offering the capability to download these products via a secure service. These large data files are currently not available for electronic transfer, however the Postal Service would like to offer the functionality to transfer these data files to licensees to ensure industry compatibility and security compliance, and identify opportunities for service improvement. This functionality will give licensees more flexibility and effectiveness with data installation and production management.

Accordingly, the National Customer Support Center (NCSC) is seeking current NCOA®, DPV®, DSF®, and AMS API licensees to test a beta web service that allows the electronic download of these products through the USPS® Electronic Product Fulfillment (EPF) Web site. Participation in this beta test is strictly limited to the following types of current licensees of the indicated postal products:

- NCOA®: Full Service Providers, Limited Service Providers, End Users, Mail Processing Equipment (MPE) Data Users.
- DPV®: Licensees,
- DSF®: Licensees,
- AMS API Product: Licensees.

Enrollment in this beta service is optional, but participants must first complete an agreement that defines the permitted uses of the beta service. The materials, hardware, activities, provisions, and other assumptions for this beta service are summarized as follows:

General Parameters:

• Beta testers (Betas) will support the test with sufficient resources to produce an interface in a timely manner.

• All Betas will be current users of the production version of the beta products.

• The test period will last no more than 90 days from the time materials are provided to Betas.

• Betas will provide feedback that can enhance the fielding of the final product or service.

• Betas will sign a confidentiality statement and an agreement to participate prior to receiving any materials.

Duties of Licensees:

• Licensees will provide their own computer hardware.

• Licensees will be responsible for programming resources, as Betas will be required to set up a method for downloading the electronic files via Web service; there is no USPS-provided interface.

• Licensees must complete an Electronic Product Fulfillment Web Access Form (located at *http://about.usps.com/forms/ps5116.pdf*).

Postal Service Assistance:

• The Postal Service will provide suggestions regarding the minimum computer hardware required for participation.

• The Postal Service will provide a Login ID and password to the fulfillment server.

• The Postal Service will provide a document describing the location of product files.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2013–03664 Filed 2–15–13; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–38, OMB Control No. 3235–0045]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 19b–4 and Form 19b–4.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 19b–4 (17 CFR 240.19b–4), under the Securities Exchange Act of 1934 (''Act'') (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 19(b) of the Act (15 U.S.C. 78s(b)) requires each self-regulatory organization (''SRO'') to file with the Commission copies of any proposed rule, or any proposed change in, addition to, or deletion from the rules of such SRO. Rule 19b–4 implements the requirements of Section 19(b) by requiring the SROs to file their proposed rule changes on Form 19b–4 and by clarifying which actions taken by SROs are subject to the filing requirement set forth in Section 19(b). Rule 19b–4(n) requires a designated clearing agency to provide an advance notice (''Advance Notice'') to the Commission of any proposed change to its rules, procedures, or operations that could materially affect the nature or level of risks presented by such clearing agency. Rule 19b–4(o) requires a registered clearing agency to submit for a Commission determination any security-based swap, or any group, category, type, or class of security-based swaps it plans to accept for clearing (''Security-Based Swap Submission''), and provide notice to its members of such submissions.

The collection of information is designed to provide the Commission with the information necessary to determine, as required by the Act, whether the proposed rule change is consistent with the Act and the rules thereunder. The information is used to determine if the proposed rule change should be approved, disapproved, or if proceedings should be instituted to determine whether to approve or disapprove the proposed rule change.

The respondents to the collection of information are self-regulatory organizations (as defined by the Act), including national securities exchanges, national securities associations, registered clearing agencies, notice registered securities future product exchanges, and the Municipal Securities Rulemaking Board.

In fiscal year 2012, thirty-four respondents filed a total of 1,688 proposed rule change responses.[1] Each response takes approximately 38 hours to complete. Thus, the total annual reporting burden for filing proposed rule changes with the Commission is 64,144 hours (1,688 proposals per year × 38 hours per filing).[2] In addition to filing their proposed rule changes with the Commission, the respondents also are required to post each of their proposals on their respective Web sites, a process which takes approximately four hours to complete per proposal. Thus, for 1,688 proposals, the total annual reporting burden on respondents to post the proposals on their Web sites is 6,752 hours (1,688 proposals per year × 4 hours per filing). Further, the respondents are required to update their rulebooks, which they maintain on their Web sites, to reflect the changes that they make in each proposal they file. Thus, for all filings that were not withdrawn by a respondent (120 withdrawn filings in fiscal year 2012) or disapproved by the Commission (2 disapproved filings in fiscal year 2012), the respondents were required to update their online rulebooks to reflect the effectiveness of 1,566 proposals, each of which takes approximately four hours to complete per proposal. Thus, the total annual reporting burden for updating online rulebooks is 6,264 hours ((1,688 filings per year—120 withdrawn filings—2 disapproved filings) × 4 hours)). Finally, a respondent is required to notify the Commission if it does not post a proposed rule change on its Web site on the same day that it filed the proposal with the Commission. The Commission estimates that SROs will fail to post proposed rule changes on their Web sites on the same day as the filing 16 times a year, and that each SRO will spend approximately one hour preparing and submitting such notice to the Commission, resulting in a total annual burden of 16 hours (16 notices × 1 hour per notice).

Clearing agencies have additional information collection burdens. As noted above, a designated clearing agency must file an Advance Notice with the Commission of any proposed change to its rules, procedures, or operations that could materially affect the nature or level of risks presented by such designated clearing agency. The Commission estimates that 10 designated clearing agencies will each submit 35 Advance Notices per year, with each submission taking 90 hours to

[1] The Commission expects four additional respondents to register during the three year period for which this Paperwork Reduction Act Extension is applicable (three as registered clearing agencies and one as a national securities exchange), bringing the total number of respondents to thirty-eight.

[2] In fiscal year 2012, respondents filed 120 optional amendments to their proposals, as well as 629 required prefilings of their proposed rule changes. Because those submissions are part of the Form 19b–4 process as required by Rule 19b–4, they are included within the 38 hour burden estimate, and, because amendments and prefilings are part of a single proposal, they do not constitute a separate response.

complete. The total annual reporting burden for filing Advance Notices is therefore 31,500 hours (10 designated clearing agencies × 35 Advance Notices per year × 90 hours per response).

Designated clearing agencies are required to post all Advance Notices to their Web sites, each of which takes approximately four hours to complete. For 35 Advance Notices, the total annual reporting burden for posting them to respondents' Web sites is 1,400 hours (10 designated clearing agencies × 35 Advance Notices per year × 4 hours per Web site posting). Respondents are required to update the postings of those Advance Notices that become effective, each of which takes approximately four hours to complete. The total annual reporting burden for updating Advance Notices on the respondents' Web sites is 1,400 hours (10 designated clearing agencies × 35 Advance Notices per year × 4 hours per Web site posting).

The respondents are also required to provide copies of all materials submitted to the Commission relating to an Advance Notice to the Board of Governors of the Federal Reserve System (''Board'') contemporaneously with such submission to the Commission, which is estimated to take two hours. The total annual reporting burden for designated clearing agencies to meet this requirement is 700 hours (10 designated clearing agencies × 35 Advance Notices per year &2 hours per response).

The Commission estimates that six security-based swap clearing agencies will each submit 20 Security-Based Swap Submissions per year, with each submission taking 140 hours to complete resulting in a total annual reporting burden of 16,800 hours (6 respondent clearing agencies × 20 Security-Based Swap Submissions per year × 140 hours per response). Respondent clearing agencies are required to post all Security-Based Swap Submissions to their Web sites, each of which takes approximately four hours to complete. For 20 Security-Based Swap Submissions, the total annual reporting burden for posting them to the six respondents' Web sites is 480 hours (6 respondent clearing agencies × 20 Security-Based Swap Submissions per year × 4 hours per Web site posting). In addition, three of the six respondent clearing agencies that have not previously posted Security-Based Swap Submissions, Advance Notices, and proposed rule changes on their Web sites may need to update their existing Web sites to post such filings online. The Commission estimates that each of these three clearing agencies would spend approximately 15 hours updating its existing Web site, resulting in a total one-time burden of 45 hours (3 respondent clearing agencies × 15 hours per Web site update) or 15 hours annualized over three years.

Respondent clearing agencies will also have to provide training to staff members using the Electronic Form 19b–4 Filing System (''EFFS'') to submit Security-Based Swap Submissions, Advance Notices, and/or proposed rule changes electronically. The Commission estimates that each of the six estimated security-based swap clearing agencies will spend approximately 20 hours training all staff members who will use EFFS to submit Security-Based Swap Submissions, Advance Notices, and/or proposed rule changes electronically, for a total of 120 hours (6 respondent clearing agencies × 20 hours) or 40 hours annualized over three years. The Commission also estimates that each of these six clearing agencies will have a one-time burden of 130 hours to draft and implement internal policies and procedures for using EFFS to make these submissions, for a total of 780 hours (6 clearing agencies × 130 hours) or 260 hours annualized over three years. The four remaining clearing agencies that have existing internal policies and procedures for using EFFS will need to update them for submitting Security-Based Swap Submissions and/or Advance Notices with the Commission. The Commission estimates that each of these four clearing agencies will have a one-time burden of 30 hours to draft and implement modifications to their internal policies, for a total of 120 hours (4 clearing agencies × 30 hours) or 40 hours annualized over three years. After the initial training is completed, the Commission estimates that each of the 38 respondents will spend 10 hours each year training new compliance staff members and updating the training of existing compliance staff members to use EFFS, for a total annual burden of 380 hours (38 respondent SROs × 10 hours).

Based on the above, the total estimated annual response burden pursuant to Rule 19b–4 and Form 19b–4 is the sum of the total annual reporting burdens for filing proposed rule changes, Advance Notices, and Security-Based Swap Submissions; training staff to file such proposals; drafting, modifying, and implementing internal policies and procedures for filing such proposals; posting each proposal on the respondents' Web sites; updating Web sites to enable posting of proposals; updating the respondents' online rulebooks to reflect the proposals that became effective; and submitting copies of Advance Notices to the Board, which is 130,191 hours.

Compliance with Rule 19b–4 is mandatory. Information received in response to Rule 19b–4 shall not be kept confidential; the information collected is public information.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312 or send an email to *PRA_Mailbox@sec.gov*.

Dated: February 13, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03690 Filed 2–15–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30381; File No. 812–14027]

AdvisorShares Investments, LLC and AdvisorShares Trust; Notice of Application

February 12, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY: *Summary of Application:* Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

Applicants: AdvisorShares Investments, LLC (the ''Advisor'') and AdvisorShares Trust (the ''Trust'').

DATES: *Filing Dates:* The application was filed on April 16, 2012, and amended on October 11, 2012 and February 6, 2013.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 8, 2013, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: AdvisorShares Investments, LLC, 2 Bethesda Metro Center, Suite 1330, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551–6873, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is organized as a Delaware statutory trust and is registered under the Act as an open-end management investment company. The Trust currently offers 18 series (each, a ''Fund'') and may offer additional Funds in the future.[1] Each existing Fund operates as an actively-managed exchange-traded fund in reliance on previously-granted exemptive orders.[2]

2. The Advisor, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). The Advisor serves as the investment adviser to each of the Funds pursuant to an investment advisory agreement with the Trust, with respect to each Fund (the ''Investment Advisory Agreement''). The Investment Advisory Agreement was approved by the Trust's board of trustees (the ''Board''),[3] including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (the ''Independent Trustees''), and by the initial shareholder of each Fund in the manner required by sections 15(a) and 15(c) of the Act and rule 18f–2 under the Act.

3. Under the terms of the Investment Advisory Agreement, the Advisor, subject to the oversight of the Board, manages the investment operations and determines the composition of the portfolio of each Fund, including the purchase, retention and disposition of the securities and other instruments held by the Fund, in accordance with the investment objectives and policies of the Fund. For its services to each Fund, the Advisor receives a fee from that Fund as specified in the Investment Advisory Agreement computed as a percentage of the Fund's average daily net assets. The Investment Advisory Agreement also permits the Advisor, subject to the approval of the Board, including a majority of the Independent Trustees, and the shareholders of the applicable Fund (if required by applicable law), to engage one or more unaffiliated investment sub-advisers (''Sub-Advisors'') to manage all or a portion of the assets of any Fund. The Advisor has entered into subadvisory agreements (''Sub-Advisory Agreements'') with various Sub-Advisors to provide investment advisory services to the Funds.[4] Each Sub-Advisor is, and each future Sub-Advisor will be, an ''investment adviser'' as defined in section 2(a)(20)(B) of the Act, as well as registered as an investment adviser under the Advisers Act. The Advisor will evaluate, select and recommend Sub-Advisors to the Board, monitor and evaluate each Sub-Advisor's investment program, and review each Fund's compliance with its investment objective, policies and restrictions. The Advisor also will recommend to the Board whether Sub-Advisory Agreements should be renewed, modified or terminated. The Advisor currently compensates each Sub-Advisor out of the fee paid by a Fund to the Advisor under the Investment Advisory Agreement. However, applicants note that future arrangements with one or more Sub-Advisors may be implemented whereby a Fund compensates a Sub-Advisor directly.

4. Applicants request an order to permit the Funds, subject to Board approval, to engage Sub-Advisors to manage all or a portion of the assets of a Fund pursuant to a Sub-Advisory Agreement and materially amend Sub-Advisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Sub-Advisor that is an affiliated person, as defined in section 2(a)(3) of the Act, of a Fund or the Advisor, other than by reason of serving as Sub-Advisor to a Fund (''Affiliated Sub-Advisor'').

5. Applicants also request an order exempting each Fund from certain disclosure provisions described below that may require the Funds to disclose fees paid by the Advisor or a Fund to each Sub-Advisor. Applicants seek an order to permit each Fund to disclose (as a dollar amount and a percentage of

[1] Applicants also request relief with respect to future Funds and any other existing or future registered open-end management investment company or series thereof that (a) is advised by the Advisor or an entity controlling, controlled by, or under common control with the Advisor or its successors (each such entity included in the term ''Advisor''); (b) uses the multi-manager structure described in the application; and (c) complies with the terms and conditions of the application (included in the term ''Funds''). Every existing entity that currently intends to rely on the requested order is named as an applicant. For purposes of the requested order, ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization. If the name of any Fund contains the name of a Sub-Advisor (as defined below), the name of the Advisor, or a trademark or trade name that is owned by the Advisor, will precede the name of the Sub-Advisor.

[2] AdvisorShares Investments, LLC and AdvisorShares Trust, Investment Company Act Release Nos. 29264 (May 6, 2010) (notice) and 29291 (May 28, 2010) (order); and AdvisorShares Investments, LLC and AdvisorShares Trust, Investment Company Act Release Nos. 28568 (Dec. 23, 2008) (notice) and 28822 (Jul. 20, 2009) (order).

[3] The term ''Board'' also includes the board of trustees or directors of a future Trust and future Fund, if different.

[4] Currently, the Advisor has entered into Sub-Advisory Agreements with the following Sub-Advisors: Accuvest Global Advisors, WCM Investment Management, Cambria Investment Management, L.P., Peritus I Asset Management, LLC, Ranger Alternative Management, L.P., Madrona Funds, LLC, American Wealth Management, Trim Tabs Asset Management, LLC, Rockledge Advisors, LLC, Your Source Financial, PLC, Baldwin Brothers Inc., Community Capital Management Inc., First Affirmative Financial Network LLC, Reynders, McVeigh Capital Management, LLC, Commerce Asset Management, LLC, Partnervest Advisory Services, LLC, Pring Turner Capital Group, Newfleet Asset Management, LLC, and Treesdale Partners LLC.

a Fund's net assets) only: (a) the aggregate fees paid to the Advisor and any Affiliated Sub-Advisors; and (b) the aggregate fees paid to Sub-Advisors other than Affiliated Sub-Advisors (collectively, the ''Aggregate Fee Disclosure''). A Fund that employs an Affiliated Sub-Advisor will provide separate disclosure of any fees paid to the Affiliated Sub-Advisor.

6. The Funds will inform shareholders of the hiring of a new Sub-Advisor pursuant to the following procedures (''Modified Notice and Access Procedures''): (a) within 90 days after a new Sub-Advisor is hired for any Fund, that Fund will send its shareholders either a Multi-manager Notice or a Multi-manager Notice and Multi-manager Information Statement; [5] and (b) the Fund will make the Multi-manager Information Statement available on the Web site identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that Web site for at least 90 days.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to a registered investment company to comply with Schedule 14A under the Exchange Act. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Regulation S–X sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b) and (c) of Regulation S–X require a registered investment company to include in its financial statement information about the investment advisory fees.

5. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

6. Applicants assert that the shareholders expect the Advisor, subject to the review and approval of the Board, to select the Sub-Advisors who are best suited to achieve the Fund's investment objective. Applicants assert that, from the perspective of the shareholder, the role of the Sub-Advisor is substantially equivalent to the role of the individual portfolio managers employed by traditional investment company advisory firms. Applicants state that requiring shareholder approval of each Subadvisory Agreement would impose unnecessary delays and expenses on the Funds, and may preclude the Fund from acting promptly when the Board and the Advisor believe that a change would benefit a Fund and its shareholders. Applicants note that the Investment Advisory Agreement and any Sub-Advisory Agreement with an Affiliated Sub-Advisor (if any) will continue to be subject to the shareholder approval requirements of section 15(a) of the Act and rule 18f-2 under the Act.

7. Applicants assert that the requested disclosure relief would benefit shareholders of the Funds because it would improve the Advisor's ability to negotiate the fees paid to Sub-Advisors. Applicants state that the Advisor may be able to negotiate rates that are below a Sub-Advisor's ''posted'' amounts, if the Advisor is not required to disclose the Sub-Advisors' fees to the public. Applicants submit that the requested relief will encourage Sub-Advisors to negotiate lower subadvisory fees with the Advisor if the lower fees are not required to be made public.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions: [6]

1. Before a Fund may rely on the order, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities, as defined in the Act, or, in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder(s) before offering the Fund's shares to the public.

2. Each Fund that relies on the order will disclose in its prospectus the existence, substance, and effect of the order. Each Fund relying on the order will hold itself out to the public as utilizing the manager of managers structure described in the application. The prospectus will prominently disclose that the Advisor has ultimate responsibility (subject to oversight by the Board) to oversee the Sub-Advisors and recommend their hiring, termination, and replacement.

3. Each Fund will inform shareholders of the hiring of a new Sub-Advisor within 90 days after the hiring of the new Sub-Advisor pursuant to the Modified Notice and Access Procedures.

4. The Advisor will not enter into a Sub-Advisory Agreement with any Affiliated Sub-Advisor without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, at least a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be at the discretion of the then-existing Independent Trustees.

[5] A ''Multi-manager Notice'' will be modeled on a Notice of Internet Availability as defined in rule 14a–16 under the Securities Exchange Act of 1934 (''Exchange Act''), and specifically will, among other things: (a) Summarize the relevant information regarding the new Sub-Advisor; (b) inform shareholders that the Multi-manager Information Statement is available on a Web site; (c) provide the Web site address; (d) state the time period during which the Multi-manager Information Statement will remain available on that Web site; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi manager Information Statement may be obtained, without charge, by contacting the Funds.

A ''Multi-manager Information Statement'' will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act for an information statement, except as modified by the requested order to permit Aggregate Fee Disclosure. Multi-manager Information Statements will be filed electronically with the Commission via the EDGAR system.

[6] Applicants will only comply with conditions 11, 12, 13, and 14 if they rely on the relief that would allow them to provide Aggregate Fee Disclosure.

6. Whenever a Sub-Advisor change is proposed for a Fund with an Affiliated Sub-Advisor, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the applicable Board minutes, that such change is in the best interests of such Fund and its shareholders and does not involve a conflict of interest from which the Advisor or an Affiliated Sub-Advisor derives an inappropriate advantage.

7. The Advisor will provide general management services to each Fund relying on the order, including overall supervisory responsibility for the general management and investment of the Fund's assets and, subject to review and approval by the Board, will: (a) set the Fund's overall investment strategies; (b) evaluate, select and recommend Sub-Advisors to provide purchase and sale recommendations to the Advisor or investment advice to all or a portion of the Fund's assets; (c) allocate and, when appropriate, reallocate the Fund's assets among multiple Sub-Advisors; (d) monitor and evaluate the Sub-Advisors' performance; and (e) implement procedures reasonably designed to ensure that Sub-Advisor(s) comply with the relevant Fund's investment objectives, policies and restrictions.

8. No trustee or officer of a Fund relying on the order or director or officer of the Advisor will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Sub-Advisor except for (a) ownership of interests in the Advisor or any entity that controls, is controlled by or is under common control with the Advisor; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Sub-Advisor or an entity that controls, is controlled by or is under common control with a Sub-Advisor.

9. For any Fund that utilizes a Sub-Advisor and pays fees to a Sub-Advisor directly from Fund assets, any changes to a Sub-Advisory Agreement that would result in an increase in the total management and advisory fees payable by that Fund will be required to be approved by the shareholders of the Fund.

10. In the event the Commission adopts a rule under the Act providing substantially similar relief to that requested in the application, the requested order will expire on the effective date of that rule.

11. Each Fund relying on the order will disclose in its registration statement the Aggregate Fee Disclosure.

12. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

13. The Advisor will provide the Board, no less frequently than quarterly, with information about the profitability of the Advisor on a per-Fund basis for each Fund relying on the order. The information will reflect the impact on profitability of the hiring or termination of any Sub-Advisor during the applicable quarter.

14. Whenever a Sub-Advisor is hired or terminated, the Advisor will provide the Board with information showing the expected impact on the profitability of the Advisor.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03686 Filed 2–15–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, February 21, 2013 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Other matters relating to enforcement proceedings; and

An adjudicatory matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: February 14, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–03829 Filed 2–14–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68907; File No. SR–PHLX–2013–05]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change Regarding Catastrophic Errors

February 12, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 31, 2013, NASDAQ OMX PHLX LLC (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Rule 1092, Obvious Errors and Catastrophic Errors. Specifically, Phlx proposes to amend Rule 1092(f)(ii) to permit the nullification of trades involving catastrophic errors in certain situations specified below.

The text of the proposed rule change is set forth below. Proposed new language is italics; proposed deletions are in brackets.

* * * * *

Rule 1092. Obvious Errors and Catastrophic Errors

The Exchange shall either nullify a transaction or adjust the execution price of a transaction that results in an Obvious Error as provided in this Rule.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(a)–(e) No change.

(f) *Catastrophic Error Procedure.*

(i) *Notification.* If an Exchange member believes that it participated in a transaction that qualifies as a Catastrophic Error pursuant to paragraph (a)(ii) above, it must notify the Exchange's Regulatory staff by 8:30 a.m. ET, on the first trading day following the date on which the Catastrophic Error occurred. For transactions in an expiring options series that take place on an expiration day, an Exchange member must notify the Exchange by 5:00 p.m. ET that same day. Relief will not be granted under this paragraph: (i) unless notification is made within the prescribed time period; and (ii) if an Options Exchange Official has previously rendered a decision with respect to the transaction in question pursuant to Rule 1092(e).

(ii) *Catastrophic Error determination.* An Options Exchange Official will determine whether the transaction(s) qualifies as a Catastrophic Error. If it is determined that a Catastrophic Error has occurred, the Options Exchange Official will adjust the execution price(s) of the transaction(s) according to subparagraph (f)(iii) below*, as long as the adjusted price would not exceed the limit price of a non-broker-dealer customer's limit order, in which case the non-broker-dealer customer would have 20 minutes from notification of the proposed adjusted price to accept it or else the trade will be nullified.* If it is determined that a Catastrophic Error has not occurred, the member requesting the determination will be subject to a charge of $5,000.

(iii)–(iv) No change.

(g) No change.

Commentary:

.01–.02 No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to help market participants better manage their risk by addressing the situation where, under current rules, a trade can be adjusted to a price outside of a customer's limit. Specifically, the Exchange proposes to amend Rule 1092(f) to enable a non-broker-dealer customer who is the contra-side to a trade that is deemed to be a catastrophic error to have the trade nullified in instances where the adjusted price would violate the customer's limit price. Only if the customer, or his agent, affirms the customer's willingness to accept the adjusted price through the customer's limit price within 20 minutes of notification of the catastrophic error ruling would the trade be adjusted; otherwise it would be nullified. Today, all catastrophic error trades are adjusted, not nullified, on all of the options exchanges.

Background

Currently, Rule 1092 governs obvious and catastrophic errors. Obvious errors are calculated under the rule by determining a theoretical price and determining, based on objective standards, whether the trade should be nullified or adjusted. The rule also contains a process for requesting an obvious error review. Certain more substantial errors may fall under the category of a catastrophic error, for which a longer time period is permitted to request a review and for which trades can only be adjusted (not nullified). Trades are adjusted pursuant to an adjustment table that, in effect, assesses an adjustment penalty. By adjusting trades above or below the theoretical price, the Rule assesses a ''penalty'' in that the adjustment price is not as favorable as the amount the party making the error would have received had it not made the error.

Proposal

At this time, the Exchange proposes to change the catastrophic error process to permit certain trades to be nullified. The definition and calculation of a catastrophic error would not change.[3] Once a catastrophic error is determined by Exchange staff, then if both parties to the trade are not a non-broker-dealer customer (''customer''),[4] then the trade would be adjusted under the current rule. If one of the parties is a non-broker-dealer customer, then the adjusted price would be compared to the limit price of the order. If the adjusted price would violate the limit price (in other words, be higher than the limit price if it is a buy and lower than the limit price if it is a sell order), then the customer would be offered an opportunity to nullify the trade. If the customer (or the customer's broker-dealer agent) does not respond within 20 minutes, the trade would be adjusted under the current rule.

These changes should ensure that a customer is not forced into a situation where the original limit price is violated and thereby the customer is forced to spend additional dollars for a trade at a price the customer had no interest in trading and may not be able to afford.

Example 1—Resting Customer forced to adjust through his limit price and would prefer nullification

Day 1

8:00:00 a.m. (pre-market)—Customer A enters order on PHLX to buy 10 GOOG May 750 puts for $25 (cost of $25,000, Customer has $50,000 in his trading account).

10:00:00 a.m.
GOOG trading at $750
May 750 puts $29.00–$31.00 (100 × 100) on all exchanges

10:04:00 a.m.
GOOG drops to $690
May 750 puts $25–$100 (10 × 10) PHLX
May 750 puts $20–$125 (10 × 10) CBOE
May 750 puts $10–$200 (100 × 100) on all other exchanges

10:04:01 a.m.
Customer B enters order to sell 10 May 750 puts for $25 (credit of $25,000)

10:04:01 a.m.
10 May 750 puts execute at $25 ($35 under parity)[5] with Customer A buying and Customer B selling.

10:04:02 a.m. (1 second later)
GOOG trading $690
May 750 puts $75–$78 (100 × 100) PHLX
May 750 puts $75–$80 (10 × 10) CBOE
May 750 puts $70–$80 (100 × 100) All other exchanges
No obvious error is filed within 20 minute notification time required by rule. If this had been an obvious error review, the trade would have been nullified in accordance with Rule 1092 because one of the parties to the trade was a non-market maker.

4:00:00 p.m. (the close)
GOOG trading $710
May 750 puts $60–$63 (100 × 100) PHLX
May 750 puts $55–$70 (10 × 10) CBOE
May 750 puts $50–$70 (100 × 100) All other exchanges

Day 2

8:00:00 a.m. (pre-market)
Customer B, submits S10 GOOG May 750 puts at $25 under Catastrophic Review.
Trade meets the criteria of Catastrophic Error and is adjusted to $68 ($75 (the 10:04:02 a.m. price less $7 adjustment penalty).

9:30:00 a.m. (the opening)
GOOG trading $725

[3] Nor is the definition or process for obvious errors changing.

[4] Professional customers are customers for purposes of Rule 1092. *See* Rule 1000(b)(x).

[5] Parity is the intrinsic value of an option when it is in-the-money. With respect to puts, it is calculated by subtracting the price of the underlying from the strike price of the put. With respect to calls, it is calculated by subtracting the strike price from the price of the underlying.

May 750 puts open $48.00–$51.00 (100 × 100) on all exchanges
Under current rule:
Without a choice, Customer A is forced to spend $68 (cost of $68,000, with only $25,000 in his account)
Puts are now trading $48, so Customer A shows a loss of $20,000 ($68 less $48 × 10 contracts × 100 multiplier)
Under proposed rule:
Customer A would be able to choose to have the B10 GOOG May 750 puts nullified avoiding both a loss, and an expenditure of capital exceeding the amount in his account. Customer B would be relieved of the obligation to sell the puts at 25 because the trade would be nullified.

Example 2—Resting Customer trades, sells out his position, thus would choose to keep the adjusted trade and avoid nullification

Day 1

8:00:00 a.m. (pre-market)—Customer A enters order on PHLX to Buy 10 BAC April 7.00 calls for $.01 (cost of $10 total. (Customer has $3,000 in his account).
10:00:00 a.m.
BAC trading $11
April 7 calls $4.50–$4.70 (100 × 100) on all exchanges
10:04:00 a.m.
BAC Trading $11
April 7 calls $.01–$4.70 (10 × 10) PHLX
April 7 calls $4.50–$4.70 (10 × 10) CBOE
April 7 calls $4.50–$4.70 (10 × 10)) All other exchanges
10:04:01 a.m.
Customer B enters order to sell 10 April 7 calls at $.01 on PHLX with an ISO indicator (which allows trade through)
10:04:01 a.m.
10 April 7 calls execute at $.01 on PHLX Customer A buying and Customer B selling.
10:04:02 a.m. (1 second later)
BAC is $11
April 7 calls $4.50–$4.70 (10 × 10) PHLX
April 7 calls $4.50–$4.70 (10 × 10) CBOE
April 7 calls $4.50–$4.70 (10 × 10)) All other exchanges
No obvious error is filed within 20 minute notification time required by rule. If this had been an obvious error review, the trade would have been nullified.
11:00:00 a.m.
BAC trading $9.60
April 7 calls $3.00–$3.25 (10 × 10) PHLX
April 7 calls $.3.00–$3.25 (10 × 10) CBOE
April 7 calls $3.00–$3.25 (10 × 10) All other exchanges
Customer A sells 10 April 7 calls at $3.00 (a total credit of $3,000 for a $2,990 profit)
3:00:00 p.m.
BAC trading $12.80
April 7 calls $5.80–$6.00 (10 × 10) PHLX
April 7 calls $5.80–$6.00 (10 × 10) CBOE
April 7 calls $5.80–$6.00 (10 × 10) All other exchanges
Customer A has now no position and would be at risk of a loss if nullified.
3:20:00 p.m.
Customer B submits S10 BAC April 7 calls at $.01 under Catastrophic Error Review.
Trade meets the criteria of Catastrophic Error and is adjusted to $2.50 ($4.50 (the 10:04:02 a.m. price) less $2 adjustment penalty).
Impact:
Under current Rule: Customer A would be adjusted to $2.50 ($4.50 (the 10:04:02 a.m. price) less $2 adjustment penalty.
Under Proposed rule:
Illustrating the need for a choice, Customer A chooses within 20 minutes to accept an adjustment to $2.50 instead of a nullification, locking in a gain of $500 instead of $2.990 (B 10 at $2.50 vs. S10 at $3.00).
If not given a choice, Customer A would be naked short 10 calls at $3.00 that are now offered at $6.00 (a $3,000 loss).

These examples illustrate the need for the non-broker dealer customer to have a choice in order to manage his risk. By applying a notification time limit of 20 minutes, it lessens the likelihood that the customer will try to let the direction of the market for that option dictate his decision for a long period of time, thus exposing the contra side to more risk. This 20 minute time period is akin to the notification period currently used in the rule respecting the notification period for starting the obvious error process for member organizations that initiated the order from off the floor of the Exchange (as opposed to on-floor specialists and ROTs).[6]

For a market maker or a broker-dealer, the penalty that is part of the price adjustment process is usually enough to offset the additional dollars spent, and they can often trade out of the position with little risk and a potential profit. For a customer who is not immersed in the day-to-day trading of the markets, this risk may be unacceptable. A customer is also less likely to be watching trading activity in a particular option throughout the day and less likely to be closely focused on the execution reports the customer receives after a trade is executed. Accordingly, the Exchange believes that it is fair and reasonable, and consistent with statutory standards, to change the procedure for catastrophic errors for customers and not for other participants.

The Exchange believes that the proposal is a fair way to address the issue of a customer's limit price, yet still balance the competing interests of certainty that trades stand versus dealing with true errors. When Rule 1092 was first adopted, the Commission stated that it ''* * * considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an 'obvious error' may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, the determination of whether an 'obvious error' has occurred, and the adjustment or nullification of a transaction because an obvious error is considered to exist, should be based on specific and objective criteria and subject to specific and objective procedures''. * * * The Commission believes that Phlx's proposed obvious error rule establishes specific and objective criteria for determining when a trade is an ''obvious error.'' Moreover, the Commission believes that the Exchange's proposal establishes specific and objective procedures governing the adjustment or nullification of a trade that resulted from an ''obvious error.'' [7] Since 2004, Phlx has been administering this rule with respect to options trading.

In 2008, the Exchange amended Rule 1092 to adopt the catastrophic error provision. In doing so, the Exchange stated that it had ''weighed carefully the need to assure that one market participant is not permitted to receive a windfall at the expense of another market participant that made an Obvious Error, against the need to assure that market participants are not simply being given an opportunity to reconsider poor trading decisions. The Exchange states that, while it believes that the Obvious Error Rule strikes the correct balance in most situations, in some extreme situations, trade participants may not be aware of errors that result in very large losses within the time periods currently required under the rule. In this type of extreme situation, the Exchange believes its members should be given more time to seek relief so that there is a greater opportunity to mitigate very large losses and reduce the corresponding large wind-falls. However, to maintain the appropriate balance, the Exchange believes members should only be given more time when the execution price is much further away from the theoretical price than is required for Obvious Errors so that relief is only provided in extreme circumstances.'' [8]

The Exchange believes that this proposal is consistent with those principles because it strikes the aforementioned balance. The Exchange is proposing to amend Exchange Rule 1092 to eliminate the risk associated with (non-broker-dealer) customers

[6] *See* Phlx Rule 1092(e)(i)(A).

[7] *See* Securities Exchange Act Release No. 49785 (May 28, 2004), 69 FR 32090 (June 8, 2004) (SR–Phlx–2003–68).

[8] *See* Securities Exchange Act Release No. 58002 (June 23, 2008), 73 FR 36581 (June 27, 2008)(SR–Phlx–2008–42)(Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Catastrophic Errors).

receiving an adjustment to a trade that is outside of the limit price of their order, when there is a catastrophic error ruling respecting their trade. The new provision would continue to entail specific and objective procedures. Furthermore, the new provision more fairly balances the potential windfall to one market participant against the potential reconsideration of a trading decision under the guise of an error.

The obvious and catastrophic error rules of the options exchanges are similar, especially with respect to only adjusting trades that result in a catastrophic error. Nevertheless, the Exchange believes, based on the aforementioned example and member requests, that this aspect of the catastrophic error process should change, as explained above. The Exchange staff has focused on this particular situation because of a recent catastrophic error ruling that resulted in an appeal pursuant to Rule 1092(f)(iv). On appeal, the committee was concerned whether market participants are aware of how options exchange catastrophic errors are handled and whether the rule should be revisited. Relatedly, members of SIFMA's Options Committee also expressed concern during a recent meeting that this particular outcome may not be appropriate. Accordingly, the Exchange has determined to amend the rule.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [9] in general, and furthers the objectives of Section 6(b)(5) of the Act [10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by helping Exchange members better manage the risk associated with potential erroneous trades. Specifically, the Exchange believes that the proposal is consistent with these principles because it provides a fair process for customers to address catastrophic errors involving a limit order. In particular, the proposal still permits nullification in certain situations. Further, it gives customers a choice. For two reasons, the Exchange does not believe that the proposal is unfairly discriminatory, even though it offers some participants (customers) a choice as to whether a trade is nullified or adjusted, while other participants will continue to have all of their catastrophic errors adjusted. First, the rule currently differentiates among Participants: The notification period to begin the obvious error process is different for specialists and Registered Options Traders,[11] and whether a trade is adjusted or busted also differs.[12] Second, options rules often treat customers in a special way,[13] recognizing that customers are not necessarily immersed in the day-to-day trading of the markets, less likely to be watching trading activity in a particular option throughout the day and may have limited funds in their trading accounts. Accordingly, differentiating among Participant types by permitting customers to have a choice as to whether to nullify a trade involving a catastrophic error is not unfairly discriminatory, because it is reasonable and fair to provide non-professional customers with additional options to protect themselves against the consequences of obvious errors.

The Exchange acknowledges that the proposal contains some uncertainty regarding whether a trade will be adjusted or nullified, depending on whether one of the parties is a customer, because a person would not know, when entering into the trade, whether the other party is or is not a customer. The Exchange believes that the proposal nevertheless promotes just and equitable principles of trade and protects investors and the public interest, because it eliminates a more serious uncertainty in the rule's operation today, which is *price* uncertainty. Today, a customer's order can be adjusted to a significantly different price, as the examples above illustrate, which is more impactful than the possibility of nullification. Furthermore, there is uncertainty in the current obvious error portion of Rule 1092 (as well as the rules of other options exchanges), which Participants have dealt with for a number of years. Specifically, Rule 1092(e)(ii) provides that if it is determined that an Obvious Error has occurred: (A) Where each party to the transaction is either a specialist or ROT on the Exchange, the execution price of the transaction will be adjusted by an Options Exchange Official, unless both parties agree to nullify the transaction within ten minutes of being notified by Regulatory staff of the Obvious Error; or (B) where at least one party to the transaction in which an Obvious Error occurred is not a specialist or ROT on the Exchange, an Options Exchange Official will nullify the transaction, unless both parties agree to adjust the price of the transaction within 30 minutes of being notified by Regulatory staff of the Obvious Error. Therefore, a specialist who prefers adjustments over nullification cannot guarantee that outcome, because, if he trades with a customer, a resulting obvious error would only be adjusted if the customer agreed to an adjustment. This uncertainty has been embedded in the rule and accepted by market participants. The Exchange believes that this proposal, despite the uncertainty based on whether a customer is involved in a trade, is nevertheless consistent with the Act, because the ability to nullify a customer's trade involving a catastrophic error should prevent the price uncertainty that mandatory adjustment under the current rule creates, which should promote just and equitable principles of trade and protect investors and the public interest.

The proposal sets forth an objective process based on specific and objective criteria and subject to specific and objective procedures. In addition, the Exchange has again weighed carefully the need to assure that one market participant is not permitted to receive a windfall at the expense of another market participant that made a catastrophic error, against the need to assure that market participants are not simply being given an opportunity to reconsider poor trading decisions. Accordingly, the Exchange has determined that introducing a nullification procedure for catastrophic errors is appropriate and consistent with the Act.

Consistent with Section 6(b)(8),[14] the Exchange also believes that the proposal does not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as described further below.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Currently, most options exchanges have similar, although not identical, rules regarding catastrophic errors. To the extent that this proposal would result in Phlx's rule being different, market participants may choose to route orders to Phlx, helping

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* Rule 1092(e)(i)(A).

[12] *See* Rule 1092(e)(i)(A).

[13] For example, many options exchange priority rules treat customer orders differently and some options exchanges only accept certain types of orders from customers. Most options exchanges charge different fees for customers.

[14] 15 U.S.C. 78f(b)(5).

Phlx compete against other options exchanges for order flow based on its customer service by having a process more responsive to current market needs. Of course, other options exchanges may choose to adopt similar rules. The proposal does not impose a burden on intra-market competition not necessary or appropriate in furtherance of the purposes of the Act, because, even though it treats different market participants differently, the Obvious Errors and Catastrophic Errors rule has always been structured that way and adding the ability for customers to choose whether a catastrophic error trade is nullified does not materially alter the risks faced by other market participants in managing the consequences of obvious errors. Overall, the proposal is intended to help market participants better manage the risk associated with potential erroneous options trades and does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–PHLX–2013–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–PHLX–2013–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–PHLX–2013–05 and should be submitted on or before March 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03706 Filed 2–15–13; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68913; File No. SR–NASDAQ–2013–024]

Self-Regulatory Organizations; the NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify the Measure Used To Determine Whether the Price of a Stock Is Equal to or Greater Than One Dollar Under Rule 4120(a)(11)

February 12, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 31, 2013 The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to clarify the measure used to determine whether the price of a stock is equal to or greater than $1 dollar under Rule 4120(a)(11).

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

4120. Trading Halts

(a) Authority To Initiate Trading Halts or Pauses

In circumstances in which Nasdaq deems it necessary to protect investors and the public interest, Nasdaq, pursuant to the procedures set forth in paragraph (c):

(1)–(10) No change.

(11) Shall, between 9:45 a.m. and 3:35 p.m., or in the case of an early scheduled close, 25 minutes before the close of trading, immediately pause trading for 5 minutes in any Nasdaq-listed security, other than rights and warrants, when the price of such security moves a percentage specified below within a 5-minute period.

(A) The price move shall be 10% or more with respect to securities included in the S&P 500® Index, Russell 1000® Index, and a pilot list of Exchange Traded Products;

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(B) The price move shall be 30% or more with respect to all NMS stocks not subject to section (a)(11)(A) of this Rule with a price equal to or greater than $1; and

(C) The price move shall be 50% or more with respect to all NMS stocks not subject to section (a)(11)(A) of this Rule with a price less than $1.

The determination that the price of a stock is equal to or greater than $1 under paragraph (a)(11)(B) above or less than $1 under paragraph (a)(11)(C) above shall be based on the *last reported* closing price on *Nasdaq* [the previous trading day, or, if no closing price exists, the last sale reported to the Consolidated Tape on the previous trading day].

At the end of the trading pause, Nasdaq will re-open the security using the Halt Cross process set forth in Nasdaq Rule 4753. In the event of a significant imbalance at the end of a trading pause, Nasdaq may delay the re-opening of a security.

Nasdaq will issue a notification if it cannot resume trading for a reason other than a significant imbalance.

Price moves under this paragraph will be calculated by changes in each consolidated last-sale price disseminated by a network processor over a five minute rolling period measured continuously. Only regular way in-sequence transactions qualify for use in calculations of price moves. Nasdaq can exclude a transaction price from use if it concludes that the transaction price resulted from an erroneous trade.

If a trading pause is triggered under this paragraph, Nasdaq shall immediately notify the single plan processor responsible for consolidation of information for the security pursuant to Rule 603 of Regulation NMS under the Securities Exchange Act of 1934. If a primary listing market issues an individual stock trading pause, Nasdaq will pause trading in that security until trading has resumed on the primary listing market or notice has been received from the primary listing market that trading may resume. If the primary listing market does not reopen within 10 minutes of notification of a trading pause, Nasdaq may resume trading the security. The provisions of this paragraph shall be in effect during a pilot set to end on February 4, 2013.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule change is to clarify the source of the price used in determining whether the price of a stock is equal to or greater than $1, or less than $1, for purposes of applying Rule 4120(a)(11)(B) or (C). Rule 4120(a)(11) states that the determination that the price of a stock is equal to or greater than $1 under paragraph Rule 4120(a)(11)(B) or less than $1 under paragraph Rule 4120(a)(11)(C) shall be based on the closing price on the previous trading day, or, if no closing price exists, the last sale reported to the Consolidated Tape on the previous trading day. As a practical matter, it is only in a rare circumstance that the last sale reported to the Consolidated Tape is used as the measure for determining the $1 threshold. This occurs when a security is thinly-traded and no trades have occurred on the Exchange on the previous trading day. The Exchange believes that using the last reported NASDAQ closing price as the measure for determining the $1 threshold is a more reliable and accurate means of measuring the price of a low-priced security.[3] In low-priced thinly-traded securities, the Exchange believes that an off-exchange transaction in an Exchange-listed security reported to the Consolidated Tape is less reflective of the security's price than a transaction occurring on the Exchange resulting in a closing price, even if that closing price precedes an off-exchange transaction.

This rule change makes the pricing measure consistent with that used to determine price decline for the short sale-related circuit breaker. In discussing the reason it elected to use a covered security's listing market at the end of regular trading hours on the prior day as an appropriate measure of price decline for the short sale-related circuit breaker, the Commission stated:

> The last price reported in the consolidated system is more likely to reflect an anomalous trade, *e.g.,* a trade that is not consistent with the current market due to, for example, the 90 second reporting window, or an uncorrected error. Listing markets generally have in place specific procedures designed to ensure the accuracy and reliability of their closing prices. Thus, we believe it is appropriate to use the more accurate closing price as determined by the covered security's listing market rather than the last price reported in the consolidated system.[4]

NASDAQ agrees and believes that the Commission's analysis is particularly true in the case of thinly-traded securities.

In addition to being consistent with the short sale-related circuit breaker, the proposed change will make the $1 threshold determination methodology under Rule 4120(a)(11) consistent with the Limit up-Limit down plan process to determine the percentage parameter applicable during a trading day, under which the reference price is based on the prior day's closing price on the primary listing market or the last sale on the primary listing market if no such closing price exists.[5]

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the ''Act''),[6] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule

[3] The Exchange notes that the changes proposed herein are reflective of its current practice, in that it has used the last reported closing price on NASDAQ as the measure for determining the $1 threshold price since adopting Rules 4120(a)(11)(B) and (C).

[4] Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 at 11255 (March 10, 2010) (adopting a short sale-related circuit breaker that, if triggered, will impose a restriction on the prices at which securities may be sold short). Rule 201 of Regulation SHO requires that a trading center establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution or display of a short sale order of a covered security at a price that is less than or equal to the current national best bid if the price of that covered security decreases by 10% or more from the covered security's closing price as determined by the listing market for the covered security as of the end of regular trading hours on the prior day. *See* 17 CFR 242.201.

[5] In the Order Approving, on a Pilot Basis, the National Market System Plan to Address Extraordinary Market Volatility, the reference price used for determining which percentage parameter shall be applicable during a trading day shall be based on the closing price of the NMS stock on the primary listing exchange on the previous trading day, or if no closing price exists, the last sale on the primary listing exchange reported by the Processor. *See* Securities Exchange Act Release No. 34–67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[6] 15 U.S.C. 78f(b)(5).

change is designed to promote more accurate determinations of the price of securities under the trading pause provided by Rule 4120(a)(11), thus promoting just and equitable principles of trade, removing impediments to, and perfecting the mechanism of, a free and open market and a national market system. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[7] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes more accurate trading pause triggers, as well as transparency and uniformity across markets concerning decisions to pause trading in a security when there are significant price movements. Moreover, the Exchange believes that other listing markets with functionally identical rules are concurrently adopting the changes proposed herein.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed rule change merely modifies how the value of a low-priced security is measured, replacing the current method with what the Exchange believes to be a more reliable and accurate measure. The proposed change will enhance the operation of the trading pause process by making the determination of the $1 threshold more accurate and reflective of the current value of a low-priced security, which in turn contributes to the protection of investors and the public interest. Accordingly, the proposed changes will not impose any burden on competition while providing more accurate trading pause determinations under Rule 4120(a)(11).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act[10] to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NASDAQ–2013–024 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NASDAQ–2013–024. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NASDAQ–2013–024 and should be submitted on or before March 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03687 Filed 2–15–13; 8:45 am]

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[7] 15 U.S.C. 78k–1(a)(1).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68911; File No. SR–NASDAQ–2013–025]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rebates To Add Liquidity in Penny Pilot Options

February 12, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 1, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

in Items I, II, and III below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to modify Chapter XV, entitled ''Options Pricing,'' at Section 2 governing pricing for NASDAQ members using the NASDAQ Options Market (''NOM''), NASDAQ's facility for executing and routing standardized equity and index options. Specifically, NOM proposes to amend its Customer and Professional Rebates to Add Liquidity in Penny Pilot Options.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ proposes to modify Chapter XV, entitled ''Options Pricing,'' at Section 2(1) governing the rebates and fees assessed for option orders entered into NOM. The Exchange is proposing to amend the Customer and Professional Rebates to Add Liquidity in Penny Pilot Options by adding an additional rebate tier to attract additional order flow to the Exchange to the benefit of all market participants. The Exchange believes that increasing the current rebate will attract additional Customer and Professional order flow.

The Exchange proposes to amend the Customer and Professional Rebates to Add Liquidity in Penny Pilot Options from a five tier rebate structure to a six tier rebate structure. Today, the Exchange pays Customer and Professional Rebates to Add Liquidity in Penny Pilot Options as follows:

Monthly volume	Rebate to add liquidity
Tier 1 Participant adds Customer and Professional liquidity of up to 34,999 contracts per day in a month	$0.26
Tier 2 Participant adds Customer and Professional liquidity of 35,000 to 74,999 contracts per day in a month	0.43
Tier 3 Participant adds Customer and Professional liquidity of 75,000 or more contracts per day in a month	0.44
Tier 4 Participant adds (1) Customer and Professional liquidity of 25,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014; and (3) the Participant executed at least one order on NASDAQ's equity market	0.42
Tier 5 Participant has Total Volume of 130,000 or more contracts per day in a month	0.46

The Exchange proposes to amend Tier 1 which currently pays a $0.26 per contract Rebate to Add Liquidity in Penny Pilot Options to Participants that add Customer and Professional liquidity of up to 34,999 contracts per day in a month and offer the same $0.26 per contract rebate to Participants that add Customer and Professional liquidity of up to a decreased 24,999 contracts per day in a month. The Exchange proposes to add another rebate tier as new ''Tier 2'' and pay a $0.40 per contract Rebate to Add Liquidity in Penny Pilot Options to Participants that add Customer and Professional liquidity of 25,000 to 34,999 contracts per day in a month. The Exchange would renumber current Tiers 2 through 5 as Tiers 3 through 6. The Exchange would also renumber corresponding notes a, b and c.

Participants that add Customer and Professional liquidity between 25,000 to 34,999 contracts per day in a month today receive a $0.26 per contract rebate. Pursuant to this proposal, these Participants would receive a $0.40 per contract rebate for adding Customer and Professional liquidity between 25,000 to 34,999 contracts per day in a month.

2. Statutory Basis

NASDAQ believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(4) of the Act,[5] in particular, in that they provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls.

The Exchange believes that increasing the Customer and Professional Rebates to Add Liquidity in Penny Pilot Options for Participants that add Customer and Professional liquidity between 25,000 and 34,999 contracts per day in a month from $0.26 to $0.40 per contract is reasonable because the increased rebate should encourage Participants to transact a greater number of Customer and Professional orders on NOM. The Exchange believes the existing monthly volume thresholds have incentivized Participants to increase Customer and Professional order flow to the Exchange.

[3] The Penny Pilot was established in March 2008 and in October 2009 was expanded and extended through December 31, 2012. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009) (SR–NASDAQ–2009–091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009) (SR–NASDAQ–2009–097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010) (SR–NASDAQ–2010–013) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR–NASDAQ–2010–053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 65969 (December 15, 2011), 76 FR 79268 (December 21, 2011) (SR–NASDAQ–2011–169) (notice of filing and immediate effectiveness extension and replacement of Penny Pilot); 67325 (June 29, 2012), 77 FR 40127 (July 6, 2012) (SR–NASDAQ–2012–075) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2012); and 68519 (December 21, 2012), 78 FR 136 (January 2, 2013) (SR–NASDAQ–2012–143) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2013). *See also* NOM Rules, Chapter VI, Section 5.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

The Exchange desires to continue to encourage Participants to route Customer and Professional orders to the Exchange by offering increased Customer and Professional Rebates to Add Liquidity in Penny Pilot Options for Participants adding between 25,000 to 34,999 contracts of Customer and Professional liquidity.

The Exchange believes that increasing the Customer and Professional Rebates To Add Liquidity in Penny Pilot Options for Participants that add Customer and Professional liquidity between 25,000 and 34,999 contracts per day in a month from $0.26 to $0.40 per contract is equitable and not unfairly discriminatory because the Exchange is proposing to offer an even higher Customer and Professional rebate in Penny Pilot Options to all Participants that qualify for new Tier 2. All NOM Participants that transact Customer and Professional orders in Penny Pilot Options are and will continue to be eligible for the Customer and Professional rebates.[6]

The Exchange believes that its proposal to amend Tier 1 to reduce the number of contracts from ''up to 34,999 contracts per day in a month'' to ''up to 24,999 contracts per day in a month'' of Customer and Professional liquidity to qualify for the Tier 1 rebate is reasonable because as mentioned above the Exchange is increasing the rebate for those contracts between 25,000 to 34,999 to attract additional Customer and Professional order flow in Penny Pilot Options to the Exchange. The Exchange believes that its proposal to amend Tier 1 to reduce the number of contracts from ''up to 34,999 contracts per day in a month'' to ''up to 24,999 contracts per day in a month'' of Customer and Professional liquidity to qualify for the Tier 1 rebate is equitable and not unfairly discriminatory because, as mentioned, all Participants that transact one Customer or one Professional order in Penny Pilot Options would continue to qualify for the Tier 1 rebate. Those Participants that transact between 25,000 to 34,999 contracts per day in a month of Customer and Professional liquidity would earn an even greater rebate pursuant to this proposal.

The Exchange believes that paying Customers and Professionals a tiered Rebate To Add Liquidity in Penny Pilot Options, as proposed herein, is equitable and not unfairly discriminatory as compared to other market participants. The Exchange pays the highest Rebates To Add Liquidity in Penny Pilot Options to Customers and Professionals as compared to other market participants, with the exception of the Tier 1 rebate. NOM Market Makers are entitled to a higher $0.30 per contract Rebate to Add Liquidity in Penny Pilot Options as compared to the Customer and Professional rebate in Tier 1 because NOM Market Makers add value through continuous quoting[7] and the commitment of capital. With respect to the proposed rebates in Tiers 2, 3, 4, 5 and 6, Customers and Professionals earn higher rebates as compared to a NOM Market Makers. Also, a Customer and a Professional are paid higher Rebates to Add Liquidity in Penny Pilot Options in all proposed tiers as compared to a Firm,[8] Broker-Dealer[9] and Non-NOM Market Maker.[10] The Exchange believes that Customers are entitled to higher rebates because Customer order flow brings unique benefits to the market through increased liquidity which benefits all market participants. The Exchange believes that paying Professionals higher Tier 2, 3, 4, 5 and 6 rebates as compared to NOM Market Makers and paying Professionals higher rebates as compared to Firms, Broker-Dealers and Non-NOM Market Makers with any tier is equitable and not unfairly discriminatory because the Exchange does not believe that the amount of the rebate offered by the Exchange has a material impact on a Participant's ability to execute orders in Penny Pilot Options. The Exchange has been assessing the impact of rebates since it first began to offer them and has also observed the impact of fees and rebates on other options exchanges in terms of quoting and liquidity. The Exchange believes that the Fees for Adding Liquidity in Penny Pilot Options, as compared to Rebates to Add Liquidity, impact a market participant's decision-making more prominently with respect to posting order flow on different venues and price. In modifying its rebates, the Exchange hopes to simply remain competitive with other venues so that it remains a choice for market participants when posting orders and the result may be additional Professional order flow for the Exchange, in addition to increased Customer order flow. In addition, a NOM Participant may not be able to gauge the exact rebate tier it would qualify for until the end of the month because Professional volume would be commingled with Customer volume in calculating tier volume. Other market participants have a known rebate rate at which they would execute the entire month. A Professional could only otherwise presume the Tier 1 rebate would be achieved in a month when determining price. Further, the Exchange initially established Professional pricing in order to '' * * * bring additional revenue to the Exchange.''[11] The Exchange noted in the Professional Filing that it believes '' * * * that the increased revenue from the proposal would assist the Exchange to recoup fixed costs.''[12] The Exchange also noted in that filing that it believes that establishing separate pricing for a Professional, which ranges between that of a customer and market maker, accomplishes this objective.[13] The Exchange does not believe that providing Professionals with the opportunity to obtain higher rebates equivalent to that of a Customer creates a competitive environment where Professionals would be necessarily advantaged on NOM as compared to other NOM Market Makers, Firms, Broker-Dealers or Non-NOM Market Makers. First, a Professional is assessed the same fees as other market

[6] Pursuant to this proposal, Tier 1 pays a rebate of $0.26 per contract to NOM Participants that add Customer and Professional liquidity of up to 24,999 contracts per day in a month of Penny Pilot Options. There is no required minimum volume of Customer and Professional orders to qualify for the Customer or Professional Rebate To Add Liquidity in Penny Pilot Options.

[7] Pursuant to Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on NOM for all purposes under the Act or rules thereunder. *See* Chapter VII, Section 5.

[8] A Firm is paid a Rebate to Add Liquidity in Penny Pilot Options of $0.10 per contract.

[9] A Broker-Dealer is paid a Rebate to Add Liquidity in Penny Pilot Options of $0.10 per contract.

[10] A Non-NOM Market Maker is paid a Rebate to Add Liquidity in Penny Pilot Options of $0.25 per contract.

[11] *See* Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR–NASDAQ–2011–066) (''Professional Filing''). In this filing, the Exchange addressed the perceived favorable pricing of Professionals who were assessed fees and paid rebates like a Customer prior to the filing. The Exchange noted in that filing that a Professional, unlike a retail Customer, has access to sophisticated trading systems that contain functionality not available to retail Customers.

[12] *See* Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR–NASDAQ–2011–066).

[13] *See* Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR–NASDAQ–2011–066). The Exchange noted in this filing that it believes the role of the retail Customer in the marketplace is distinct from that of the Professional and the Exchange's fee proposal at that time accounted for this distinction by pricing each market participant according to their roles and obligations.

participants, except Customers.[14] Second, a Professional only has the opportunity to achieve the higher rebate by sending in more than 24,999 contracts per day in a month, otherwise the Professional only achieves a Tier 1 rebate with at least one trade and the differential in that scenario as between market participants remains the same.[15] The Exchange recognizes that the rebate tiers provide an incentive to Professionals, but it is not a guaranteed rebate.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Customers have traditionally been paid the highest rebates offered by options exchanges. While the Exchange's proposal would also result in a Professional receiving higher rebates as compared to a NOM Market Maker if a Professional qualified for a Tier 2, 3, 4, 5 or 6 rebate and the differential in rebates would increase as between a Professional and a Firm, a Broker-Dealer and a Non-NOM Market Maker with this proposal, the Exchange does not believe the proposed rebate tiers would result in any burden on competition as between market participants on NOM. The Exchange does not believe that the amount of the rebate offered by the Exchange has a material impact on a Participant's ability to execute orders in Penny Pilot Options. The Exchange has been assessing the impact of rebates since it first began to offer them and has also observed the impact of fees and rebates on other options exchanges in terms of quoting and liquidity. The Exchange believes that the Fees for Adding Liquidity, as compared to rebates, impact a market participant's decision-making more prominently with respect to posting order flow on different venues and price. The Exchange does not believe that allowing a Professional to obtain a higher rebate as compared to other market participants, if a certain number of contracts where to be executed on the Exchange, results in a burden on competition among market participants on NOM for the reasons noted herein.

The Exchange believes that offering Customers and Professionals the proposed tiered rebates creates competition among options exchanges because the Exchange believes that the rebates may cause market participants to select NOM as a venue to send Customer and Professional order flow. The Exchange is offering to pay increased rebates for Customer and Professional liquidity between 25,000 to 34,999 contracts per day in a month, which additional order flow should benefit other market participants.

The Exchange operates in a highly competitive market comprised of eleven U.S. options exchanges in which sophisticated and knowledgeable market participants can readily send order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive. The Exchange believes that the proposed rebate structure and tiers are competitive with rebates and tiers in place on other exchanges. The Exchange believes that this competitive marketplace impacts the rebates present on the Exchange today and substantially influences the proposals set forth above.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[16] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–025 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–025. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–025 and should be submitted on or before March 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03684 Filed 2–15–13; 8:45 am]

BILLING CODE 8011–01–P

[14] The Fee for Removing Liquidity in Penny Pilot Options is $0.47 per contract for all market participants, except Customers.

[15] If a Professional earned a Tier 1 rebate, the Professional would continue to receive a lower rebate as compared to a NOM Market Maker and a higher rebate as compared to a Firm, Broker-Dealer and a Non-NOM Market Maker, as is the case today.

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68906; File No. SR–ISE–2013–13]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

February 12, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 4, 2013, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend it [sic] Schedule of Fees to reflect a change in the ticker symbol of one security subject to maker/taker fees and rebates. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently assesses per contract transaction fees and provides rebates to market participants that add or remove liquidity from the Exchange (''maker/taker fees and rebates'') in 190 options classes (the ''Select Symbols'').[3] The Exchange's maker/taker fees and rebates are applicable to regular and complex orders executed in the Select Symbols. The purpose of this proposed rule change is to amend the list of Select Symbols on the Exchange's Schedule of Fees, titled ''Rebates and Fees for Adding and Removing Liquidity in Select Symbols.'' On January 31, 2013, Research in Motion, Limited announced that effective February 4, 2013, the company is changing its ticker symbol from RIMM to BBRY.[4] RIMM is currently a Select Symbol and is subject to the Exchange's maker/taker fees and rebates. With this proposed rule change, the Exchange proposes to replace ticker symbol RIMM with BBRY in the Exchange's list of Select Symbols. The Exchange's maker/taker fees and rebates that were previously applicable to RIMM will now apply to BBRY. The Exchange is not proposing any change to the maker/taker fees and rebates with this proposed rule change.

The Exchange is not proposing any other changes in this filing.

2. Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(4) of the Act[6] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange believes that it is reasonable to replace RIMM with BBRY in its list of Select Symbols to continue attracting additional order flow to the Exchange. This proposed rule change does not amend any fees or rebates and simply proposes to reflect a change in Research in Motion, Limited's ticker symbol from RIMM to BBRY. Additionally, with this proposed rule change, the maker/taker fees and rebates previously applicable to RIMM will now apply to BBRY.

The Exchange believes that it is equitable to amend the list of Select Symbols by replacing RIMM with BBRY because the list of Select Symbols applies uniformly to all categories of participants in the same manner. All market participants who trade the Select Symbols are subject to and will continue to be subject to the applicable maker/taker fees and rebates.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Exchange is not making any competitive change with this proposed rule change. This proposed rule change simply reflects a change in an underlying security's ticker symbol.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and subparagraph (f)(2) of Rule 19b–4 thereunder,[8] because it establishes a due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Options classes subject to maker/taker fees and rebates are identified by their ticker symbol on the Exchange's Schedule of Fees.

[4] *See http://press.blackberry.com/press/2013/rim-ticker-change-to-take-effect-monday-february-4.html.*

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2013–13 on the subject line.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2013–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2013–13, and should be submitted on or before March 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03683 Filed 2–15–13; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68905; File No. SR–NASDAQ–2013–023]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rules 7014 and 7018

February 12, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 [2] thereunder, notice is hereby given that on January 31, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is proposing (i) to modify the recently introduced Qualified Market Maker (''QMM'') pilot program to increase the incentives for participation provided thereunder; (ii) to replace the Extended Hours Investor Program (''EHIP'') with a similar financial incentive program focused both on usage of NASDAQ during pre- and post-market hours and use of NASDAQ's routing facility, to be referred to as the Routable Order Program (''ROP''); and (iii) to modify the securities covered by NASDAQ's recently introduced program of special pricing for certain ''Designated Securities.''

While changes pursuant to this proposal are effective upon filing, the Exchange will implement the proposed rule changes on February 1, 2013.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. *Purpose*

Qualified Market Maker Program

In November 2012,[3] NASDAQ introduced, on a six-month pilot basis, a market quality incentive program under which a member may be designated as a QMM with respect to one or more of its MPIDs if:

• The member is not assessed any ''Excess Order Fee'' under Rule 7018 during the month; [4] and

• Through such MPID the member quotes at the national best bid or best offer (''NBBO'') at least 25% of the time during regular market hours [5] in an average of at least 1,000 securities during the month.[6]

Thus, to be a QMM, a member must make a significant contribution to market quality by providing liquidity at the NBBO in a large number of stocks for a significant portion of the day. In

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 68209 (November 9, 2012), 77 FR 69519 (November 19, 2012) (SR–NASDAQ–2012–126).

[4] Rule 7018(m). The Excess Order Fee is aimed at reducing inefficient order entry practices that place excessive burdens on the systems of NASDAQ and its members and that may negatively impact the usefulness and life cycle cost of market data. In general, the determination of whether to impose the fee on a particular MPID is made by calculating the ratio between (i) entered orders, weighted by the distance of the order from the NBBO, and (ii) orders that execute in whole or in part. The fee is imposed on MPIDs that have an ''Order Entry Ratio'' of more than 100.

[5] Defined as 9:30 a.m. through 4:00 p.m., or such shorter period as may be designated by NASDAQ on a day when the securities markets close early (such as the day after Thanksgiving).

[6] A member MPID is considered to be quoting at the NBBO if it has a displayed order at either the national best bid or the national best offer or both the national best bid and offer. On a daily basis, NASDAQ determines the number of securities in which the member satisfied the 25% NBBO requirement. To qualify for QMM designation, the MPID must meet the requirement for an average of 1,000 securities per day over the course of the month. Thus, if a member MPID satisfied the 25% NBBO requirement in 900 securities for half the days in the month, and satisfied the requirement for 1,100 securities for the other days in the month, it would meet the requirement for an average of 1,000 securities. NASDAQ recently filed an amendment with respect to the QMM program to make it clear that if a member seeking to be designated as a QMM terminates the use of one MPID and simultaneously commences use of another MPID during the course of a month, it may aggregate activity on the two MPIDs for purposes of determining its eligibility as a QMM. *See* SR–NASDAQ–2013–016 (January 30, 2013).

addition, the member must avoid imposing the burdens on NASDAQ and its market participants that may be associated with excessive rates of entry of orders away from the inside and/or order cancellation. A QMM may be, but is not required to be, a registered market maker in any security; thus, the QMM designation does not by itself impose a two-sided quotation obligation or convey any of the benefits associated with being a registered market maker. The designation does, however, reflect the QMM's commitment to provide meaningful and consistent support to market quality and price discovery by extensive quoting at the NBBO in a large number of securities. Thus, the program is designed to attract liquidity both from traditional market makers and from other firms that are willing to commit capital to support liquidity at the NBBO. By providing incentives under the program, NASDAQ hopes to provide improved trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the inside market. In addition, the program reflects an effort to use financial incentives to encourage a wider variety of members, including members that may be characterized as high-frequency trading firms, to make positive commitments to promote market quality.

Under the program as originally implemented, a member that is a QMM with respect to a particular MPID (a ''QMM MPID'') [7] will receive:

• An ''NBBO Setter Incentive credit'' of $0.0005 with respect to displayed orders with a size of at least one round lot that set the NBBO or that first allow NASDAQ to join another trading center at the NBBO and that are entered through a QMM MPID; and

• A 25% discount on fees for ports used for entering orders for a QMM MPID, up to a total discount of $10,000 per QMM MPID per month.[8] The specific fees subject to this discount are: (i) all ports using the NASDAQ Information Exchange (''QIX'') protocol,[9] (ii) Financial Information Exchange (''FIX'') trading ports,[10] and (iii) ports using other trading telecommunications protocols.[11]

In order to further increase the appeal of the QMM program to potential participants, NASDAQ is adding the following additional benefits for QMMs:

• NASDAQ will provide a credit of $0.0001 per share executed with respect to all orders in securities priced at $1 or more per share that provide liquidity and that are entered through a QMM MPID, other than orders qualifying for the higher NBBO Setter Incentive credit described above. The $0.0001 credit will be in addition to any credit payable under Rule 7018. However, if a QMM also participates in the Investor Support Program (the ''ISP''), NASDAQ will pay the greater of any applicable credit under the ISP or the QMM program, but not a credit under both programs.

• NASDAQ will provide a credit of $0.0020 per share executed for all midpoint pegged or midpoint peg post-only orders (''midpoint orders'') in securities priced at $1 or more per share entered through a QMM MPID (in lieu of the credit payable under Rule 7018). NASDAQ notes that under Rule 7018, midpoint orders receive a higher rebate than other forms of non-displayed orders because they offer price improvement.

• For a number of shares not to exceed the number of shares of liquidity provided through a QMM MPID (the ''Numerical Cap''), NASDAQ will charge a fee of $0.0028 per share executed for orders in securities priced at $1 or more per share that access liquidity on the Nasdaq Market Center and that are entered through the same QMM MPID; provided, however, that orders that would otherwise be charged $0.0028 per share executed under Rule 7018 will not count toward the Numerical Cap. For shares above the Numerical Cap, NASDAQ will charge the rate otherwise applicable under Rule 7018.

NASDAQ is proposing these discounts as a means of recognizing the value of market participants that consistently quote at the NBBO in a large number of securities and providing greater incentives to market participants to meet the applicable quoting requirements. Even when such market participants are not formally registered as market makers, they risk capital by offering immediately executable liquidity at the price most favorable to market participants on the opposite side of the market. Such activity promotes price discovery and dampens volatility and thereby enhances the attractiveness of NASDAQ as a trading venue.

Routable Order Program and Extended Hours Investor Program

NASDAQ is replacing its Extended Hours Investor Program with a similar program focused on recognizing the propensity of members representing retail customers to make more extensive use of exchange-provided routing facilities and pre- and post-market trading sessions, as compared with proprietary traders. NASDAQ believes that this correlation results from the low cost and simplicity of exchange-provided routing, and the convenience of pre- and post-market trading for persons who are not professional traders. Accordingly, NASDAQ is proposing a new program that, together with the ISP, is aimed at encouraging greater participation in NASDAQ by members that represent retail customers.[12] The EHIP will be eliminated, however, because it has not been successful in attracting additional trading activity to NASDAQ.

To be eligible for the new Routable Order Program, a member must have an MPID through which it provides an average daily volume of at least 35 million shares of displayed liquidity using orders that employ the SCAN or LIST routing strategies, including an average daily volume of at least 2 million shares that are provided prior to the NASDAQ Opening Cross and/or after the NASDAQ Closing Cross.[13] SCAN is a basic routing strategy that is widely used by firms that represent retail customers. SCAN orders check the Nasdaq Market Center System for available shares, while remaining shares are simultaneously routed to destinations on the applicable routing table. If shares remain un-executed after routing, they are posted on the book. Once on the book, if the order is

[7] NASDAQ is adding the defined term ''QMM MPID'' to the rule through this proposed rule change.

[8] The ports subject to the discount are not used for receipt of market data.

[9] The applicable undiscounted fees are $1,200 per month for a port pair or ECN direct connection port pair, and $1,000 per month for an unsolicited message port. *See* Rule 7015(a).

[10] The applicable undiscounted fee is $500 per port per month. *See* Rule 7015(b).

[11] The applicable undiscounted fee is $500 per port pair per month. *See* Rule 7015(g).

[12] The Commission has expressed concern that a significant percentage of the orders of individual investors are executed in over-the-counter markets, that is, at off-exchange markets. Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3594 (January 21, 2010) (Concept Release on Equity Market Structure, ''Concept Release''). In the Concept Release, the Commission recognized the strong policy preference under the Act in favor of price transparency and displayed markets. *See also* Mary L. Schapiro, *Strengthening Our Equity Market* Structure (Speech at the Economic Club of New York, Sept. 7, 2010) (''Schapiro Speech,'' available on the Commission Web site) (comments of Commission Chairman on what she viewed as a troubling trend of reduced participation in the equity markets by individual investors, and that nearly 30 percent of volume in U.S.-listed equities is executed in venues that do not display their liquidity or make it generally available to the public).

[13] If a member seeking to participate in the ROP terminates the use of one MPID and simultaneously commences use of another MPID during the course of a month, it may aggregate activity on the two MPIDs for purposes of determining its eligibility.

subsequently locked or crossed by another market center, the System will not route the order to the locking or crossing market center.[14] LIST is a routing strategy that is used by firms that wish for their orders to participate in the opening and closing processes of each security's primary listing exchange, to access liquidity on all exchanges if marketable, and otherwise to post to the NASDAQ book. Members, including those that represent retail customers, use the LIST strategy to offload on the Exchange and its routing broker the technical complexity associated with routing orders to participate in the market open and/or close.

With respect to SCAN and LIST orders in securities priced at $1 or more per share that are entered through an MPID that qualifies for the ROP, NASDAQ will charge a fee of $0.0029 per share executed with respect to such orders when they access liquidity in the Nasdaq Market Center.[15] If such orders are designated for display in the Nasdaq Market Center and provide liquidity after posting to the book, NASDAQ will provide a credit of $0.0037 per share executed. With respect to SCAN and LIST orders in securities priced less than $1 per share that are entered through an MPID that qualifies for the ROP, NASDAQ will charge a fee of 0.30% of the total transaction cost with respect to such orders when they access liquidity in the Nasdaq Market Center,[16] and will provide a credit of $0.00003 per share executed if they are designated for display and provide liquidity after posting to the book. These fees and credits are in lieu of the fees and credits otherwise charged or provided under Rule 7018. Moreover, orders that qualify for these fees and credits are not eligible to receive additional credits under the ISP, but are included in calculations with regard to eligibility to participate in the ISP and other incentive programs under Rule 7014.

[14] The SKIP routing strategy is a form of SCAN in which the entering firm instructs the System to bypass any market centers included in the SCAN System routing table that are not posting Protected Quotations within the meaning of Regulation NMS. The ROP does not apply to SKIP orders, however, as it is less used by members that represent retail customers.

[15] When such orders execute at other market centers, the routing fees provided for in Rule 7018 will apply.

[16] When such orders execute at other market centers, the routing fees provided for in Rule 7018 will apply.

Designated Securities Pricing

In December 2012,[17] NASDAQ introduced a discounted execution fee of $0.0028 per share executed for the following securities (''Designated Securities''):

BAC Bank of America Corporation
DIA SPDR Dow Jones Industrial Average ETF
EEM iShares MSCI Emerging Markets Index ETF
F Ford Motor Co.
GE General Electric Company
GEN GenOn Energy, Inc.
HPQ Hewlett-Packard Company
INTC Intel Corporation
IWM iShares Russell 2000 Index ETF
MSFT Microsoft Corporation
NOK Nokia Corporation
QQQ Powershares QQQ ETF
S Sprint Nextel Corp.
SPY SPDR S&P 500 ETF
TZA Direxion Daily Small Cap Bear 3X Shares ETF
VXX iPath S&P 500 VIX ST Futures ETN
XLF Financial Select Sector SPDR ETF
YHOO Yahoo! Inc.

The discounted fee applies to all orders in Designated Securities entered through an MPID through which a member accesses, provides, or routes shares of liquidity that represent more than 0.25% of Consolidated Volume [18] during the month, including a daily average volume of at least 2 million shares of liquidity provided. By lowering the fee for accessing liquidity in these securities, NASDAQ hoped to encourage members to give greater priority to NASDAQ in their routing decisions, thereby lowering their costs and improving the execution experience of liquidity providers in Designated Securities. In order to qualify for the discount, members must demonstrate a commitment to regular participation in the Nasdaq Market Center by reaching relatively modest usage levels (shares accessed, provided or routed representing 0.25% of Consolidated Volume), including an average daily volume of 2 million or more shares of liquidity provided.

Based on the performance of the program to date, NASDAQ has determined to modify the list of Designated Securities as follows:

AAPL Apple Inc.
CSCO Cisco Systems, Inc.
DELL Dell Inc.
INTC Intel Corporation
MSFT Microsoft Corporation
MU Micron Technology Inc.
NWSA News Corp.
ORCL Oracle Corporation
QQQ PowerShares QQQ ETF
YHOO Yahoo! Inc.

The change reflects the fact that the program of Designated Securities has been most successful at increasing the share of orders routed to NASDAQ in NASDAQ-listed securities. Accordingly, NASDAQ is modifying the program to focus exclusively on NASDAQ-listed securities for which NASDAQ believes that the incentive provided through the program has the most potential to increase NASDAQ's share of executions.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[19] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[20] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed changes are reflective of NASDAQ's ongoing efforts to use pricing incentive programs to attract orders of retail customers to NASDAQ and improve market quality. The QMM program is intended to encourage members to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day in a large number of securities, thereby benefitting NASDAQ and other investors by committing capital to support the execution of orders. The proposed changes to the program are intended to further promote these goals by providing additional incentives for market participants to achieve the requirements for participation in the program. Specifically, the proposed changes are consistent with statutory requirements in the following respects:

• The proposal reduces the access fee paid by QMMs to $0.0028 per share executed, for a number of shares that reflects the number of shares of liquidity provided by the QMM. This change is reasonable because it reflects a price reduction from the rate of $0.0030 or $0.0029 per share executed otherwise applicable. The change is consistent with an equitable allocation of fees and is not unfairly discriminatory because it is being offered to market participants that make significant contributions to market quality by satisfying the QMM

[17] Securities Exchange Act Release No. 68421 (December 13, 2012), 77 FR 75232 (December 19, 2012) (SR–NASDAQ–2012–135).

[18] ''Consolidated Volume'' is defined as the total consolidated volume reported to all consolidated transaction plans by all exchanges and trade reporting facilities.

[19] 15 U.S.C. 78f.

[20] 15 U.S.C. 78f(b)(4) and (5).

requirements, thereby benefitting other NASDAQ market participants.

• The proposal increases the rebate paid with respect to orders, other than orders that set or join the NBBO under the terms of the NBBO Setter Incentive program, by $0.0001. This change is reasonable because it provides a modest additional incentive for market participants to achieve the market quality requirements of the QMM program, while still providing an appropriate differentiation from orders that qualify for the NBBO Setter Incentive program, thereby receiving an extra rebate of $0.0005. The change is consistent with an equitable allocation of fees and is not unfairly discriminatory because it is being offered to market participants that make significant contributions to market quality by satisfying the QMM requirements, thereby benefitting other NASDAQ market participants.

• The proposal increases the rebate paid with respect to midpoint orders to $0.0020 per share executed, as compared with the rebate of $0.0015 or $0.0017 per share executed otherwise payable under Rule 7018. This change is reasonable, because it will result in a price reduction with respect to these orders. It is also reasonable because it is consistent with NASDAQ's existing practice of paying a higher rebate with respect to midpoint orders than with respect to other forms of non-displayed orders due to the greater potential for midpoint orders to provide price improvement to market participants that execute against them. The change is consistent with an equitable allocation of fees and is not unfairly discriminatory because it is being offered to market participants that make significant contributions to market quality by satisfying the QMM requirements, thereby benefitting other NASDAQ market participants.

NASDAQ further believes that the proposed ROP is consistent with the requirements of the Act. Specifically, as with the existing ISP, the goal of the program is to provide meaningful incentives for members that represent significant numbers of retail customers to increase their participation in NASDAQ. The proposed fees and credits applicable to orders covered by the ROP are reasonable because they reflect significant fee reductions, thereby reducing the costs of members that represent retail customers and that take advantage of the program, and potentially also reducing costs to the customers themselves. The change is consistent with an equitable allocation of fees because NASDAQ believes that it is reasonable to use fee reductions as a means to encourage greater retail participation in NASDAQ. Because retail orders are more likely to reflect long-term investment intentions than the orders of proprietary traders, they promote price discovery and dampen volatility. Accordingly, their presence in the NASDAQ market has the potential to benefit all market participants. For this reason, NASDAQ believes that it is equitable to provide significant financial incentives to encourage greater retail participation in the market. NASDAQ further believes that the proposed program is not unreasonable discriminatory because it is offered to firms representing retail customers that provide significant levels of liquidity, and is therefore complementary to existing programs, such as the ISP, that already aim to encourage greater retail participation.

NASDAQ believes that the proposed elimination of the EHIP is reasonable because no market participants have taken advantage of it since its inception, and therefore its elimination will not have a significant impact on members' fees and credits. Similarly, the elimination is consistent with an equitable allocation of fees and is not unreasonably discriminatory because significant financial incentives aimed at encouraging retail participation in a manner similar to the EHIP are already offered and are being added to NASDAQ's fee schedule through this filing.

NASDAQ believes that the proposal to modify the pricing incentive for Designated Securities is reasonable because it will focus an existing fee reduction on securities that NASDAQ believes are more likely to have their volumes on NASDAQ increase, thereby reducing fees for a larger number of trades. The proposal is consistent with an equitable allocation of fees and not unfairly discriminatory because it will reduce fees for members that have demonstrated a commitment to regular participation in the Nasdaq Market Center through reaching specified levels of overall usage and liquidity provision. Incentives focused on the members that provide liquidity are prevalent in securities markets because higher levels of liquidity provision aid price discovery and dampen volatility. In addition, the focus of the incentive on Designated Securities is equitable and not unreasonably discriminatory because, despite strong quotes in terms of size and time at the inside, NASDAQ's share of executions in these securities has declined, thereby risking the willingness of members to continue to offer liquidity at current levels. By providing an incentive for members to access NASDAQ's quote in these securities, the price change will benefit liquidity providers as well as liquidity accessors. The discount is also not unfairly discriminatory because NASDAQ believes that the modified list of Designated Securities will be more widely traded than the former list, and the change will therefore result in broader pricing reductions.

Finally, NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. NASDAQ believes that all aspects of the proposed rule change reflect this competitive environment because the changes reflect significant price reductions, offset only to a small extent by the elimination of the EHIP.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, NASDAQ believes that these changes reflect significant price reductions, offset only to a small extent by the elimination of the EHIP. Such reductions reflect the high degree of competition in the cash equities markets and will further enhance that competition by lowering fees and possibly encouraging NASDAQ's competitors to make competitive responses. The market for order execution is extremely competitive and members may readily opt to disfavor NASDAQ's execution services if they believe that alternatives offer them better value. Accordingly, NASDAQ believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [21] and paragraph (f) of Rule 19b–4 thereunder.[22] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml)*; or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–023 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–023. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–023 and should be submitted on or before March 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03682 Filed 2–15–13; 8:45 am]

BILLING CODE 8011–01–P

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68912; File No. SR–NYSEArca–2013–13]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Exchange Rule 7.11 To Establish Rules To Comply With the Requirements of the Plan To Address Extraordinary Market Volatility Submitted to the Commission Pursuant to Rule 608 of Regulation NMS

February 12, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 31, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 7.11 to establish rules to comply with the requirements of Plan To Address Extraordinary Market Volatility submitted to the Commission pursuant to Rule 608 of Regulation NMS. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, on the Commission's Web site at *http://www.sec.gov*, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 7.11 to establish rules to comply with the requirements of the Plan To Address Extraordinary Market Volatility submitted to the Commission pursuant to Rule 608 of Regulation NMS under the Act (the ''Plan''). The Exchange proposes to adopt the changes for a pilot period that coincides with the pilot period for the Plan, which is currently scheduled as a one-year pilot to begin on April 8, 2013.

Background

Since May 6, 2010, when the markets experienced excessive volatility in an abbreviated time period, *i.e.,* the ''flash crash,'' the equities exchanges and FINRA have implemented market-wide measures designed to restore investor confidence by reducing the potential for excessive market volatility. Among the measures adopted include pilot plans for stock-by-stock trading pauses [4] and related changes to the equities market clearly erroneous execution rules [5] and

[4] *See, e.g.,* Exchange Rule 7.11.

[5] *See, e.g.,* Exchange Rule 7.10.

more stringent equities market maker quoting requirements.[6] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[7] In addition, the Commission approved changes to the equities market-wide circuit breaker rules on a pilot basis to coincide with the pilot period for the Plan.[8]

The Plan is designed to prevent trades in individual NMS Stocks from occurring outside of specified Price Bands.[9] As described more fully below, the requirements of the Plan are coupled with Trading Pauses to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity). All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, are required to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the requirements specified in the Plan.[10] As set forth in more detail in the Plan, Price Bands consisting of a Lower Price Band and an Upper Price Band for each NMS Stock are calculated by the Processors.[11] When the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band, the Processors shall disseminate such National Best Bid (Offer) with an appropriate flag identifying it as unexecutable. When the National Best Bid (Offer) is equal to the Upper (Lower) Price Band, the Processors shall distribute such National Best Bid (Offer) with an appropriate flag identifying it as a Limit State Quotation.[12] All trading centers in NMS Stocks must maintain written policies and procedures that are reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for NMS Stocks. Notwithstanding this requirement, the Processor shall display an offer below the Lower Price Band or a bid above the Upper Price Band, but with a flag that it is non-executable. Such bids or offers shall not be included in the National Best Bid or National Best Offer calculations.[13]

Trading in an NMS Stock immediately enters a Limit State if the National Best Offer (Bid) equals but does not cross the Lower (Upper) Price Band.[14] Trading for an NMS stock exits a Limit State if, within 15 seconds of entering the Limit State, all Limit State Quotations were executed or canceled in their entirety. If the market does not exit a Limit State within 15 seconds, then the Primary Listing Exchange would declare a five-minute trading pause pursuant to Section VII of the LULD Plan, which would be applicable to all markets trading the security.[15] In addition, the Plan defines a Straddle State as when the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS Stock is not in a Limit State. For example, assume the Lower Price Band for an NMS Stock is $9.50 and the Upper Price Band is $10.50, such NMS stock would be in a Straddle State if the National Best Bid were below $9.50, and therefore non-executable, and the National Best Offer were above $9.50 (including a National Best Offer that could be above $10.50). If an NMS Stock is in a Straddle State and trading in that stock deviates from normal trading characteristics, the Primary Listing Exchange may declare a trading pause for that NMS Stock.

Proposed Amendment to Rule 7.11

The Exchange is required by the Plan to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan. In response to the new Plan, the Exchange proposes to amend its Rules accordingly.

The Exchange proposes to add Rule 7.11(a)(1) to define that ''Plan'' means the Plan to Address Extraordinary Market Volatility Submitted to the Securities and Exchange Commission Pursuant to Rule 608 of Regulation NMS under the Securities Exchange Act of 1934, Exhibit A to Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012), as it may be amended from time to time. The Exchange proposes to add Rule 7.11(a)(2) to state that the Exchange is a Participant in, and subject to the applicable requirements of, the Plan, which establishes procedures to address extraordinary volatility in NMS Stocks. In addition, proposed Rule 7.11(a)(1) provides that all capitalized terms not otherwise defined in this Rule shall have the meanings set forth in the Plan or Exchange rules, as applicable.

The Exchange proposes to add Rule 7.11(a)(3) to provide that ETP Holders shall comply with the applicable provisions of the Plan. The Exchange believes that this requirement will help ensure compliance by its members with the provisions of the Plan as required pursuant to Section II(B) of the Plan.[16]

The Exchange proposes to add Rule 7.11(a)(4) to provide that Exchange systems shall not display or execute buy (sell) interest above (below) the Upper (Lower) Price Bands, unless such interest is specifically exempted under the Plan. The Exchange believes that this requirement is reasonably designed to enable compliance with the limit up-limit down and trading pause requirements specified in the Plan, by preventing executions outside the Price Bands as required pursuant to Section VI(A)(1) of the Plan.[17]

The Exchange proposes Rules regarding the treatment of certain trading interest on the Exchange in order to prevent executions outside the Price Bands and to comply with the new LULD Plan. In particular, the Exchange proposes to add Rule 7.11(a)(5) that provides that Exchange systems shall cancel buy (sell) interest that is priced or could be executed above (below) the Upper (Lower) Price Band.[18] Specifically, the Exchange proposes the following provision regarding the canceling of certain trading interest:

• *Marketable Trading Interest.* Incoming marketable interest, including market orders, IOC orders, and limit orders, shall be executed, or if applicable, routed to an away market, to the fullest extent possible, subject to Rules 7.31(a)(1)–(3) (Trading Collars for market orders) and 7.31(b)(2) (price check for limit orders), at prices at or within the Price Bands. Any unexecuted portion of such incoming marketable interest that cannot be executed at prices at or within the Price Bands shall be cancelled and the ETP Holder shall be notified of the reason for the cancellation.

[6] *See, e.g.,* Exchange Rule 7.23.

[7] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (Order Approving, on a Pilot Basis, the National Market System Plan To Address Extraordinary Market Volatility).

[8] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129).

[9] Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

[10] The Exchange is a Participant in the Plan.

[11] *See* Section V(A) of the Plan.

[12] *See* Section VI(A) of the Plan.

[13] *See* Section VI(A)(3) of the Plan.

[14] *See* Section VI(B)(1) of the Plan.

[15] The primary listing market would declare a trading pause in an NMS Stock; upon notification by the primary listing market, the Processor would disseminate this information to the public. No trades in that NMS Stock could occur during the trading pause, but all bids and offers may be displayed. *See* Section VII(A) of the Plan.

[16] *See* Section II(B) of the Plan.

[17] *See* Section VI(A)(1) of the Plan.

[18] Sell short orders that are not eligible for repricing instructions will be treated as any other order pursuant to Rule 7.11(a)(5). *See* proposed Exchange Rule 7.11(a)(6)(D).

The Exchange believes this provision is reasonably designed to prevent executions outside the Price Bands as required by the limit up-limit down and trading pause requirements specified in the Plan. The Exchange believes that allowing marketable trading interest to execute to the extent possible within the Price Bands and cancelling any unexecuted portion of such interest that cannot be executed at prices at or within the Price Bands, is reasonably designed to prevent executions in violation with the limit up-limit down and trading pause requirements. The Exchange believes that adding certainty to the treatment of marketable trading interest in these situations will encourage market participants to continue to provide liquidity to the Exchange and thus promote a fair and orderly market.

In addition, the Exchange proposes to add 7.11(a)(6) that provides that Exchange systems shall reprice certain specified limit orders for which ETP Holders have entered an instruction for the Exchange to reprice a buy (sell) order that is priced above (below) the Upper (Lower) Price Band to the Upper (Lower) Price Band rather than cancel the order. Specifically, the Exchange proposes the following provisions regarding the repricing certain specified limit orders:

- *Instructions to Reprice.* Instructions to reprice eligible orders shall be applicable to both incoming and resting orders. If the Price Bands move and the original limit price of a repriced order is at or within the Price Bands, Exchange systems shall reprice such limit order to its original limit price.
- *Time Priority of Repriced Orders.* Each time an eligible order is repriced, it shall receive a new time priority.
- *Eligible Limit Order Types.* The following order types are eligible for repricing instructions: Adding Liquidity Only Orders (Rule 7.31(nn)), Discretion Limit Order (Rule 7.31(h)(2)(B)), Discretionary Order (Rule 7.31(h)(2)), Limit Order (7.31(b)), Passive Discretionary Order (Rule 7.31(h)(2)(A)), PNP ISO (Rule 7.31(w)), PNP Order (Rule 7.31(w)), Proactive if Locked Reserve Order (Rule 7.31(hh)), Random Reserve Order (Rule 7.31(h)(3)(B)), Reserve Order (Rule 7.31(h)(3)), Sweep Reserve Order (Rule 7.31(h)(3)(A)), Primary Until 9:45 Order (Rule 7.31(oo)), Primary After 3:55 Order (Rule 7.31(pp)), and Primary Sweep Order (Rule 7.31(kk)).
- *Sell Short Orders.* For an order type eligible for repricing instructions that is also a short sell order, during a Short Sale Price Test, as set forth in Rule 7.16(f), short sale orders priced below the Lower Price Band shall be repriced to the higher of the Lower Price Band or the Permitted Price, as defined in Rule 7.16(f)(ii). Sell short orders that are not eligible for repricing instructions will be treated as any other order pursuant to Rule 7.11(a)(5).
- *Original Order Instructions.* Any interest repriced pursuant to Exchange Rule 7.11(a)(6) shall return to its original order instructions for purposes of a re-opening transaction following a Trading Pause.

The Exchange believes these provisions are reasonably designed to prevent executions outside the Price Bands as required by the limit up-limit down and trading pause requirements specified in the Plan. The Exchange believes that allowing certain specified limit orders for which ETP Holders have entered instructions that would otherwise execute outside the Prices Bands to reprice and receive a new time stamp, is reasonably designed to prevent executions in violation of the limit up-limit down and trading pause requirements. The Exchange notes that the receiving of a new timestamp instead of retaining the original during repricing should have no impact on the priority amongst the orders repriced, because their ranking after repricing will be in the same time order as before repricing, based on the order time when initially entered.[19] Similarly, when orders repriced pursuant to proposed Rule 7.11(a)(6) return to their original order instructions for purposes of the re-opening transaction following a Trading Pause, their ranking will continue to be in the same time order as before repricing, based on the order time when initially entered.[20]

The Exchange believes that the proposal provides a transparent methodology that encourages participants to price orders within the Price Bands and treats repriced orders in a fair and consistent manner. The Exchange believes that adding certainty to the treatment and priority of trading interest in these situations will encourage market participants to continue to provide liquidity to the Exchange and thus promote a fair and orderly market.

The Exchange proposes Rule 7.11(a)(7) that provides that the Exchange systems shall not route buy (sell) interest to an away market displaying a sell (buy) quote that is above (below) the Upper (Lower) Price Band. However, the Exchange shall route orders with a primary market modifier regardless of price, specifically the Primary Only Order (Rule 7.31(x)), Primary Until 9:45 Order (Rule 7.31(oo)), Primary After 3:55 Order (Rule 7.31(pp)), and Primary Sweep Order (Rule 7.31(kk)). Since the Exchange does not control the timing of the execution of the order on the primary market, it would be difficult for the Exchange to anticipate when the order may violate a Price Band when such order is on the Primary Market. For these specific orders, the Exchange believes that the primary market is best positioned to prevent an execution of the order outside the Price Bands. The Exchange believes that this provision is reasonably designed to prevent an execution outside the Price Bands in a

[19] Example 1—the Exchange receives three limit orders to buy that are eligible for repricing instructions—A, B, C. The orders are received in that time order. Order A and B, are priced outside of the Price Bands (higher than the Upper Band), but Order C has a limit price within the Price Bands. Orders A and B will be repriced to the Upper Band and receive a new timestamp. The new order priority would be A, B, C, because A and B are repriced sequentially in the order originally received at the price of the Upper Band, while Order C has a lower limit price within the Price Bands.

However, the Exchange also notes that because repriced orders will receive a new time priority, such orders would not necessarily retain their previous priority in the order queue when compared to orders that do not get repriced. A later arriving order that is priced at the Price Bands could have time priority compared to an order that was repriced pursuant to the order instructions because the original order pricing was outside the Price Bands.

Example 2—the Exchange receives three limit orders to buy that are eligible for repricing instructions—A, B, C. The orders are received in that time order. Order A and B, are priced outside of the Price Bands (higher than the Upper Band), but Order C has a limit price at the Upper Band. The new order priority would be C, A, B, because C is not getting repriced it keeps its original timestamp, while Orders A and B are repriced sequentially in the order originally received at the price of the Upper Band.

[20] Assume the same scenario as Example 1 in note 18. Order A and B, are priced outside of the Price Bands (higher than the Upper Band), but Order C has a limit price within the Price Bands. Orders A and B will be repriced to the Upper Band and receive a new time stamp. With the new order priority being A, B, C, because A and B are repriced sequentially in the order originally received at the price of the Upper Band, while Order C has a lower limit price within the Price Bands. After a Trading Pause, Orders A and B return to their original price pursuant to their original order instructions. The new order priority for the reopening auction will be A, B, C, because A and B are repriced sequentially in the order originally received at the higher original limit price, while C has a lower limit price.

Assume the same scenario as Example 2. Order A and B, are priced outside of the Price Bands (higher than the Upper Band), but Order C has a limit price at the Upper Band. With the new order priority would be C, A, B, because C is not getting repriced it keeps its original timestamp, while Orders A and B are repriced sequentially in the order originally received at the price of the Upper Band. After a Trading Pause, Orders A and B return to their original price pursuant to their original order instructions. The new order priority for the reopening auction will be A, B, C, because A and B are repriced sequentially in the order originally received at the higher original limit price, while C has a lower limit price.

manner that promotes compliance with the limit up-limit down and trading pause requirements specified in the Plan.

In addition, the Exchange proposes Rule 7.11(a)(8) that provides that the Exchange may declare a Trading Pause for a NMS Stock listed on the Exchange when (i) the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS Stock is not in a Limit State; and (ii) trading in that NMS Stock deviates from normal trading characteristics. An Exchange Official may declare such Trading Pause during a Straddle State if such Trading Pause would support the Plan's goal to address extraordinary market volatility.[21] The Exchange believes that this provision is reasonably designed to comply with Section VII(A)(2) of the Plan.[22]

Consistent with the Plan's requirements for the Exchange to establish, maintain, and enforce policies and procedures that are reasonably designed to comply with the trading pause requirements specified in the Plan, the Exchanges also proposes to amend the Rules regarding Trading Pauses to correspond with the LULD Plan. The Exchange proposes to provide that during Phase 1 of the Plan, a Trading Pause in Tier 1 NMS Stocks subject to the requirements of the Plan, shall be subject to Plan requirements and Rule 7.11(b)(2); a Trading Pause in Tier 1 NMS Stocks not yet subject to the requirements of the Plan shall be subject to the requirements in paragraphs (b)(1)–(6) of this Rule; and a Trading Pause in Tier 2 NMS Stocks shall be subject to the requirements set forth in Rule 7.11(b)(1)(B)–(6). The proposed change will allow the Trading Pause requirements in Rule 7.11(b)(1) to continue to apply to Tier 1 NMS Stocks during the beginning of Phase I until they are subject to the Plan requirements. Once the Plan has been fully implemented and all NMS Stocks are subject to the Plan, a Trading Pause under the Plan shall be subject to Exchange Rule 7.11(b)(2). These proposed changes are designed to comply with Section VIII of the Plan to ensure implementation of the Plan's requirements.[23]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[24] in general, and furthers the objectives of Section 6(b)(5),[25] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposal promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of, a free and open market and a national market system by ensuring that the Exchange systems will not display or execute trading interest outside the Price Bands as required by the limit up-limit down and trading pause requirements specified in the Plan. Specifically, the proposal is reasonably designed to ensure that the trading interest on the Exchange is either repriced or canceled in a manner that promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of, a free and open market and a national market system. Further, the proposal is designed to enable market participants to continue to trade NMS Stocks within the Price Bands in compliance with the Plan with certainty on how certain orders and trading interest will be treated. Thus, reducing uncertainty regarding the treatment and priority of trading interest with the Price Bands should help encourage market participants to continue to provide liquidity during times of extraordinary market volatility that occur during Regular Trading Hours.

The proposal also promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of, a free and open market and a national market system by ensuring that orders in NMS Stocks are not routed to other exchanges in situations where an execution may occur outside Price Bands, and thereby is reasonably designed to prevent an execution outside the Price Bands in a manner that promotes compliance with the limit up-limit down and trading pause requirements specified in the Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are being made to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan, of which other equities exchanges are also Participants of. Other competing equity exchanges are subject to the same limit up-limit down and trading pause requirements specified in the Plan. Thus, the proposed changes will not impose any burden on competition while providing certainty of treatment and execution of trading interest on the Exchange to market participants during periods of extraordinary volatility in NMS stock while in compliance with the limit up-limit down and trading pause requirements specified in the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[26] and Rule 19b–4(f)(6) thereunder.[27] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act[28] to determine whether the proposed rule change should be approved or disapproved.

[21] The Exchange will develop written policies and procedures to determine when to declare a Trading Pause in such circumstances.

[22] *See* Section VII(A)(2) of the Plan.

[23] *See* Section VIII of the Plan.

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(5).

[26] 15 U.S.C. 78s(b)(3)(A)(iii).

[27] 17 CFR 240.19b–4(f)(6).

[28] 15 U.S.C. 78s(b)(2)(B).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSEArca–2013–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEArca–2013–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2013–13 and should be submitted on or before March 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03685 Filed 2–15–13; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13479 and #13480]

Connecticut Disaster #CT–00030

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Connecticut dated 02/08/2013.

Incident: Gateway Estates Condominium Complex Fire.

Incident Period: 01/15/2013.

Effective Date: 02/08/2013.

Physical Loan Application Deadline Date: 04/09/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 11/16/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Hartford.

Contiguous Counties:

Connecticut: Litchfield, Middlesex, New Haven, New London, Tolland.

Massachusetts: Hampden.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.500
Homeowners Without Credit Available Elsewhere	1.750
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13479 5 and for economic injury is 13480 0.

The States which received an EIDL Declaration # are Connecticut, Massachusetts.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: February 8, 2013.

Karen G. Mills,

Administrator.

[FR Doc. 2013–03736 Filed 2–15–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13481 and #13482]

Georgia Disaster #GA–00051

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Georgia dated 02/08/2013.

Incident: Severe Storms and Tornadoes.

Incident Period: 01/30/2013.

Effective Date: 02/08/2013.

Physical Loan Application Deadline Date: 04/09/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 11/16/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Bartow, Gordon.

Contiguous Counties:

Georgia: Cherokee, Cobb, Floyd,

Gilmer, Murray, Paulding, Pickens, Polk, Walker, Whitfield.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.375
Homeowners Without Credit Available Elsewhere	1.688
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13481 C and for economic injury is 13482 0.

The State which received an EIDL Declaration # is Georgia.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: February 8, 2013.

Karen G. Mills,

Administrator.

[FR Doc. 2013–03735 Filed 2–15–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13425 and #13426]

Maryland Disaster Number MD–00024

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Maryland (FEMA–4091–DR), dated 12/14/2012.

Incident: Hurricane Sandy.

Incident Period: 10/26/2012 through 11/04/2012.

Effective Date: 02/05/2013.

Physical Loan Application Deadline Date: 02/26/2013.

EIDL Loan Application Deadline Date: 09/16/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Maryland, dated 12/14/2012 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 02/26/2013.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–03738 Filed 2–15–13; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8187]

Culturally Significant Objects Imported for Exhibition Determinations: ''Claes Oldenburg: The Street and The Store''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Claes Oldenburg: The Street and The Store,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Modern Art, New York, New York, from on or about April 14, 2013, until on or about August 5, 2013, the Walker Art Center, Minneapolis, Minnesota, from on or about September 14, 2013, until on or about January 14, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: February 11, 2013.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–03773 Filed 2–15–13; 8:45 am]

BILLING CODE 4710–05–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Dispute No. WT/DS455]

WTO Dispute Settlement Proceeding Regarding Indonesia Importation of Horticultural Products, Animals and Animal Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on January 10, 2013, the United States requested consultations with the Government of the Republic of Indonesia (''Indonesia'') under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement'') concerning certain measures imposed by Indonesia on the importation of horticultural products, animals and animal products. That request may be found at *www.wto.org*, contained in a document designated as WT/DS455/1. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 14, 2013 to assure timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically at *www.regulations.gov,* docket number USTR–2013–0002. If you are unable to provide submissions at *www.regulations.gov*, please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395–3640.

FOR FURTHER INFORMATION CONTACT: Arthur Tsao, Assistant General Counsel, Office of the United States Trade Representative, (202) 395–3150.

SUPPLEMENTARY INFORMATION: USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such a panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issues Raised by the United States

On January 10, 2013, the United States requested consultations concerning certain measures imposed by Indonesia on the importation of horticultural products, animals and animal products into Indonesia. Indonesia subjects the importation of horticultural products, animals and animal products into Indonesia to non-automatic import licenses and quotas, thereby restricting imports of goods. In particular, Indonesia imposes an import licensing regime for horticultural products and for animal and animal products pursuant to which an importer must complete multiple steps prior to importing those products into Indonesia.

The legal instruments through which Indonesia imposes and administers these measures include but are not limited to the following instruments: Law of the Republic of Indonesia Number 13 of Year 2010 Concerning Horticulture; Regulation of the Minister of Agriculture Number 60/Permentan/OT.140/9/2012; Regulation of the Minister of Trade Number 30/M–DAG/PER/5/2012 Regarding Provisions on Import of Horticultural Products; Regulation of the Minister of Trade Number 60/M–DAG/PER/9/2012 Regarding Second Amendment of Regulation of the Minister of Trade Number 30/M–DAG/PER/5/2012 Regarding Provisions on Import of Horticultural Products; Law of the Republic of Indonesia Number 18/2009 on Animal Husbandry and Animal Health; Regulation of the Minister of Agriculture Number 50/Permentan/OT.140/9/2011 Concerning Recommendation for Approval on Import of Carcasses, Meats, Edible Offals and/or Processed Products Thereof to Indonesian Territory; and Regulation of the Minister of Trade Number 24/M–DAG/PER/9/2011 Concerning Provisions on the Import and Export of Animal and Animal Product. The legal instruments also include any amendments, related measures, or implementing measures.

These licensing regimes have significant trade-restrictive effects on imports and are used to implement what appear to be WTO-inconsistent measures. The multi-step licensing process appears to be more administratively burdensome than absolutely necessary to administer the measure. The issuance of licenses appears to be delayed or refused by the Indonesian authorities on non-transparent grounds. The Indonesian licensing measures do not inform traders of the basis for granting licenses. The licensing regimes do not appear to be administered in a uniform, impartial and reasonable manner, because the measures are applied inconsistently and unpredictably.

Through these measures, Indonesia appears to have acted inconsistently with its obligations under the *General Agreement on Tariffs and Trade* (''GATT 1994''), the *Agreement on Agriculture* (''Agriculture Agreement''), and the *Agreement on Import Licensing Procedures* (''Import Licensing Agreement''). Specifically, the United States asserts that Indonesia's measures appear to be inconsistent with the following provisions of the GATT 1994, the Agriculture Agreement, and the Import Licensing Agreement:

1. Articles X:3(a) and XI:1 of the GATT 1994;

2. Article 4.2 of the Agriculture Agreement; and

3. Articles 1.2, 3.2 and 3.3 of the Import Licensing Agreement.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to *www.regulations.gov*, docket number USTR–2013–0002. If you are unable to provide submissions by *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via *www.regulations.gov,* enter docket number USTR–2013–0002 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Submit a Comment'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page).

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comments'' field, or by attaching a document using an ''Upload File'' field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comments'' field.

A person requesting that information, contained in a comment that he submitted, be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted at *www.regulations.gov.* The non-confidential summary will be placed in the docket and will be open to public inspection.

USTR may determine that information or advice contained in a comment submitted, other than business confidential information, is confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted at *www.regulations.gov.* The non-confidential summary will be placed in the docket and will be open to public inspection.

Pursuant to section 127(e) of the Uruguay Round Agreements Act (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding, docket number USTR–2013–0002, accessible to the public at *www.regulations.gov*.

The public file will include non-confidential comments received by USTR from the public regarding the dispute. If a dispute settlement panel is convened, or in the event of an appeal from such a panel, the following documents will be made available to the public at *www.ustr.gov:* The United States' submissions, any non-confidential submissions received from other participants in the dispute, and any non-confidential summaries of submissions received from other participants in the dispute. In the event that a dispute settlement panel is convened, or in the event of an appeal from such a panel, the report of the panel, and, if applicable, the report of the Appellate Body, will also be available on the Web site of the World Trade Organization at *www.wto.org.* Comments open to public inspection may be viewed at *www.regulations.gov*.

Juan Millán,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 2013–03667 Filed 2–15–13; 8:45 am]

BILLING CODE 3290–F3–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

National Freight Advisory Committee

AGENCY: Office of the Secretary, U.S. Department of Transportation (DOT).

ACTION: Notice of Establishment of National Freight Advisory Committee (NFAC or Committee) and Solicitation of Nominations for Membership.

SUMMARY: Pursuant to Section 9(a)(2) of the Federal Advisory Committee Act (FACA) (5 U.S.C., App. 2.), and in accordance with Title 41, Code of Federal Regulations, Section 102–3.65, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the NFAC will be established for a 2-year period.

The Committee will provide advice and recommendations to the Secretary of Transportation on matters related to freight transportation in the United States, including: (1) Implementation of the freight transportation requirements of the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141); (2) establishment of the National Freight Network; (3) development of a National Freight Strategic Plan; (4) development of strategies to help States implement State Freight Advisory Committees and State Freight Plans; (5) development of measures of conditions and performance in freight transportation; (6) development of freight transportation investment, data, and planning tools; and (7) legislative recommendations.

Additionally, the establishment of the NFAC is necessary for the Department to carry out its mission and is in the public interest. The Committee will operate in accordance with the provisions of the FACA and the rules and regulations issued in implementation of that Act.

This notice also requests nominations for members of the Committee to ensure a wide range of member candidates and a balanced Committee.

DATES: Nominations must be received on or before midnight E.D.T. on March 21, 2013. The Department encourages nominations submitted any time before the deadline.

ADDRESSES: All nomination materials should be emailed to *freight@dot.gov* or faxed to the attention of Shira Bergstein at (202) 366–0263, or mailed to Shira Bergstein, U.S. Department of Transportation, Office of the Secretary Office of Policy, Room W84–317, 1200 New Jersey Avenue SE., Washington, DC 20590. Any person needing accessibility accommodations should contact Shira Bergstein at (202) 366–1999.

FOR FURTHER INFORMATION CONTACT: Shira Bergstein, U.S. Department of Transportation, Office of the Secretary Office of Policy, Room W84–317, 1200 New Jersey Avenue SE., Washington, DC 20590; phone (202) 366–1999; email: *freight@dot.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Transportation is hereby soliciting nominations for members of the NFAC. The Secretary of Transportation will appoint at least 25 committee members. Members will be selected with a view toward achieving varied perspectives on freight transportation, including (1) modes of transportation; (2) regional representation; (3) relevant policy areas such as economic competitiveness, safety, labor, and environment; (4) freight customers and providers; and (5) government bodies. Specifically, the Committee will seek to balance the following interests to the extent practicable: State Departments of Transportation; State, local, and tribal elected officials; local planning offices; shippers, businesses, and economic development; air cargo, freight forwarder, rail, maritime, ports, trucking, and pipelines; labor union, and safety, the environment, and equity communities. Committee members may serve for a term of 2 years or less and may be reappointed for successive terms, with no more than 2 successive terms. The Chair and Vice Chair of the Committee will be appointed by the Under Secretary of Transportation for Policy from among the selected members, and the Committee is expected to meet approximately three times per year or as necessary. Subcommittees may be formed to address specific freight transportation issues. Some Committee members may be appointed as representative members; other Committee members may be appointed as Special Government Employees and will be subject to certain ethical restrictions, and such members will be required to submit certain information in connection with the appointment process.

Process and Deadline for Submitting Nominations: Individuals can self-nominate or be nominated by any individual or organization. For nominators' convenience, a sample template for submitting nominations can be downloaded from *http://www.freight.dot.gov.* To be considered for the NFAC, nominators should submit the following information:

(1) Contact Information for the nominee, consisting of:

a. Name
b. Title
c. Organization or Affiliation
d. Address
e. City, State, Zip
f. Telephone number
g. Email address

(2) Statement of interest limited to 250 words on why the nominee wants to serve on the NFAC and the unique perspectives and experiences the nominee brings to the NFAC;

(3) Résumé limited to 3 pages describing professional and academic expertise, experience, and knowledge, including any relevant experience serving on advisory committees, past and present;

(4) An affirmative statement that the nominee is not a federally registered lobbyist, and that the nominee understands that if, appointed, the nominee will not be allowed to continue to serve as a Committee member if the nominee becomes a federally registered lobbyist; and

(5) Optional letters of support.

Please do not send company, trade association, organization brochures, or any other promotional information. Materials submitted should total five pages or less and must be formatted in Microsoft Word or PDF. Should more information be needed, DOT staff will contact the nominee, obtain information from the nominee's past affiliations, or obtain information from publicly available sources, such as the Internet.

Nominations may be emailed to *freight@dot.gov* or faxed to the attention of Shira Bergstein at (202) 366–0263, or mailed to Shira Bergstein, U.S. Department of Transportation, Office of the Secretary Office of Policy, Room W84–317 (P–40), 1200 New Jersey Avenue SE., Washington, DC 20590. Nominations must be received on or before midnight E.D.T. on March 21, 2013. The Department encourages nominations submitted any time before the deadline. The Department is not responsible for any technical difficulties submitting a nomination form. Nominees selected for appointment to the Committee will be notified by return email and by a letter of appointment.

A selection team comprising representatives from several DOT offices will review the nomination packages. The selection team will make recommendations regarding membership to the Under Secretary of Transportation for Policy based on criteria including (1) professional or academic expertise, experience, and knowledge; (2) stakeholder representation; (3) availability and willingness to serve; and (4) relevant experience in working in committees and advisory panels. The Under Secretary of Transportation for Policy will submit a list of recommended candidates to the Secretary of Transportation for review and final selection of Committee members.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical disability, marital status, or sexual orientation. To ensure that recommendations to the Secretary of Transportation take into account the needs of the diverse groups served by DOT, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. Please note, however, that federally registered lobbyists are ineligible for nomination.

Issued in Washington, DC, on February 13, 2013.

Ray LaHood,

Secretary of Transportation.

[FR Doc. 2013–03759 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Aviation Rulemaking Advisory Committee (ARAC) meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the ARAC.

DATES: The meeting will be held on March 5, 2013, at 1:00 p.m.

ADDRESSES: The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 5th Floor, Conference Room 5 A/B/C.

FOR FURTHER INFORMATION CONTACT: Renee Butner, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267- 5093; fax (202) 267–5075; email *Renee.Butner@faa.gov.*

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the ARAC taking place on March 5, 2012, at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 20591. The Agenda includes:

1. ARAC Bylaws Discussion and Approval
2. Status Reports From Active Working Groups
   a. Airman Testing Standards and Training Working Group (ARAC)
   b. Flight Controls Harmonization Working Group (Transport Airplane and Engine Subcommittee [TAE])
   c. Airworthiness Assurance Working Group (TAE)
3. New Tasks
   a. Engine Bird Ingestion Requirements—Revision of Section 33.76
   b. Transport Airplane Performance and Handling Characteristics
4. ARAC Tasking Template
5. Proposed Rulemaking for Part 21
6. Status Report From the FAA
   a. Rulemaking Prioritization Working Group (RPWG)

Attendance is open to the interested public but limited to the space available. The FAA will arrange teleconference service for individuals wishing to join in by teleconference if we receive notice by February 26. Arrangements to participate by teleconference can be made by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Callers outside the Washington metropolitan area are responsible for paying long-distance charges.

The public must arrange by February 26 to present oral statements at the meeting. The public may present written statements to the Aviation Rulemaking Advisory Committee by providing 25 copies to the Designated Federal Officer, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on February 8, 2013.

Lirio Liu,

Designated Federal Officer, Aviation Rulemaking Advisory Committee.

[FR Doc. 2013–03406 Filed 2–14–13; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No FMCSA–2011–0097]

Pilot Project on NAFTA Trucking Provisions

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: On September 12, 2011, FMCSA announced and requested public comment on data and information concerning the Pre-Authorization Safety Audit (PASA) for Grupo Behr de Baja California SA de CV (Grupo Behr), USDOT# 861744, a motor carrier that applied to participate in the Agency's long-haul pilot program. That action was required by the ''U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007'' and all subsequent appropriations. While Grupo Behr successfully completed the PASA process, commenters raised concerns about the company's safety record. In addition, during the Agency's safety vetting process, an operating authority violation was discovered. As a result, the Agency placed Grupo Behr's application on hold. The purpose of this notice is to respond to the comments received in response to the September 12, 2011, notice, and to explain the enforcement action that the Agency took as a result of the operating authority violation. In addition, this notice advises that the Agency will now issue provisional authority to Grupo Behr for participation in the long-haul pilot program.

ADDRESSES:

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground floor of

the DOT Headquarters Building at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act System of Records Notice for the DOT Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

Public Participation: The *www.regulations.gov* Web site is generally available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the ''help'' section of the *www.regulations.gov* Web site. Comments received after the comment closing date will be included in the docket, and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Marcelo Perez, FMCSA, North American Borders Division, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Telephone (512) 916–5440 Ext. 228; email *marcelo.perez@dot.gov*.

SUPPLEMENTARY INFORMATION:

Background

On May 25, 2007, the President signed into law the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (the Act), [Pub. L. 110–28, 121 Stat. 112, 183, May 25, 2007]. Section 6901 of the Act requires that certain actions be taken by the Department of Transportation (the Department) as a condition of obligating or expending appropriated funds to grant authority to Mexico-domiciled motor carriers to operate beyond the municipalities in the United States on the United States-Mexico international border or the commercial zones of such municipalities (border commercial zones).

On July 8, 2011, FMCSA announced in the **Federal Register** [76 FR 40420] its intent to proceed with the initiation of a U.S.-Mexico cross-border long-haul trucking pilot program to test and demonstrate the ability of Mexico-domiciled motor carriers to operate safely in the United States beyond the border commercial zones as detailed in the Agency's April 13, 2011, **Federal Register** notice [76 FR 20807]. The pilot program is a part of FMCSA's implementation of the North American Free Trade Agreement (NAFTA) cross-border long-haul trucking provisions in compliance with section 6901(b)(2)(B) of the Act. FMCSA reviewed, assessed, and evaluated the required safety measures as noted in the July 8, 2011, notice and considered all comments received on or before May 13, 2011, in response to the April 13, 2011, notice. Additionally, to the extent practicable, FMCSA considered comments received after May 13, 2011.

In accordance with section 6901(b)(2)(B)(i) of the Act, FMCSA is required to publish a notice in the **Federal Register**, and provide sufficient opportunity for the public to review and comment on comprehensive data and information on the PASAs conducted of motor carriers domiciled in Mexico that are granted authority to operate beyond the border commercial zones.

Comments and Responses

On September 12, 2011, FMCSA published the passed PASA results for Grupo Behr [76 FR 56274], and the Agency received responses from 13 commenters.

On October 14, 2011, the Agency published a second notice [76 FR 63988] that explained that Advocates for Auto and Highway Safety (Advocates) and the International Brotherhood of Teamsters (Teamsters) expressed concern that Grupo Behr's out-of-service (OOS) rate was 28.6%, which was higher than the national average of 20.7%.

In addition, both commenters noted that Grupo Behr's vehicle maintenance rating within FMCSA's Safety Measurement System (SMS) was 45.8%. Advocates further noted that Grupo Behr had 40 vehicle violations in the 24 months prior to August 26, 2011. Also, the Owner-Operator Independent Drivers Association (OOIDA) indicated that publicly-available information indicated that Grupo Behr had an inadequate safety history.

FMCSA Response: Over the past year, Grupo Behr has improved its safety record. Grupo Behr's Vehicle OOS rate is currently 14% and its Driver OOS rate is 2% based on the December 14, 2012, SMS snapshot. Grupo Behr does not currently have any SMS Behavior Analysis and Safety Indicator Categories (BASICs) that exceed FMCSA's intervention thresholds. As a result, the company is in good standing to participate in the Pilot Program.

It should also be noted that the statutory and regulatory requirement for participation in the pilot program is satisfactory completion of the PASA and a subsequent compliance review, after operation. The Agency may not establish standards for pilot program participants that are not comparable to the requirements for U.S. carriers.

OOIDA researched the vehicle identification numbers from inspection reports and questioned if Grupo Behr would be using a 1991 Class 8 Freightliner, which does not comply with the Environmental Protection Agency (EPA) requirement for vehicles of model year 1998 or later.

FMCSA Response: The FMCSA confirmed that all vehicles proposed for use in the pilot program by Grupo Behr meet both Federal Motor Vehicle Safety Standards and EPA requirements. The oldest of the proposed vehicles to be operated by Grupo Behr in the pilot program is 1998, and the 1991 Class 8 Freightliner in question by OOIDA will not be used.

OOIDA questioned the safety data collected on Grupo Behr's straight trucks and asked how this is affected by SMS segmentation. In addition, OOIDA challenged the accuracy of Grupo Behr's Vehicle Maintenance BASIC and alleged that the event group–the group of carriers that Grupo Behr is compared against in SMS— ''watered down'' their scores.

FMCSA Response: FMCSA notes that Mexican carriers are evaluated the same as U.S. carriers under SMS. Also, there are many types of trucking operations using a variety of equipment. The pilot program is designed to test and demonstrate the ability of Mexico-domiciled motor carriers to operate safely in the United States beyond the commercial zones; the Mexican trucking industry as a whole includes straight trucks that may operate beyond the commercial zones, and such operations are an important part of the pilot program.

Advocates asked if the drivers and vehicles to be used in the pilot program had been subject to any of Grupo Behr's OOS orders.

FMCSA Response: During the past 12 months, two of the five vehicles that Grupo will use in the Pilot Program have been placed out of service and deficiencies subsequently corrected. FMCSA notes that Grupo Behr's Vehicle Maintenance BASIC score is 30.9% resulting from on-road performance data, which is below our intervention threshold levels. In addition, during our PASA, FMCSA confirmed that Grupo Behr has a systematic vehicle maintenance program that meets our requirements. The five vehicles to be used in the pilot program were inspected by FMCSA in June 2012 and received Commercial Vehicle Safety Alliance (CVSA) decals. The vehicles

will be reinspected prior to installation of electronic monitoring devices and CVSA decals applied, as appropriate. Additionally, during the past 12 months, one driver who will participate in the pilot program was placed out-of-service for having an expired Licencia Federal de Conductor (LFC) during a roadside inspection. The FMCSA confirmed that this driver's LFC has since been reinstated. This driver was also subject to several subsequent inspections and has not been placed out of service, indicating that this deficiency was adequately addressed.

The Teamsters noted that Grupo Behr's insurance history has a period between July 2007 and April 2010 where ''cancelled'' is listed six times. Based on this information, the Teamsters questioned if Grupo Behr will be able to obtain and maintain insurance.

FMCSA Response: The insurance history questioned by the Teamsters for Grupo Behr is associated with the operating authority number MX630115. A review of the insurance history for MX630115, which is publicly available on FMCSA's Licensing and Insurance Web site, reflects no lapse in either required bodily injury-property damage liability insurance or cargo insurance coverage for Grupo Behr from July 2, 2007, through April 3, 2010. The policy cancellation notices associated with Grupo Behr's MX630115 operating authority are the result of the insurance industry's common practice of sending cancellation notices to FMCSA prior to the end of the term of insurance coverage, because of FMCSA's requirement that they notify the Agency 30 days prior to the end of the policy. FMCSA notes that the Agency's previous cross border Demonstration Project was terminated on March 9, 2010, and Grupo Behr's provisional operating authority was revoked. Grupo Behr's insurance was not cancelled prior to the termination of the Demonstration Project.

In the October 14, 2011, notice, FMCSA explained that, based on the information provided by Advocates, OOIDA, and Teamsters, the Agency was conducting additional reviews of Grupo Behr's inspections and vehicles. As a result, the Agency would not issue long-haul operating authority to Grupo Behr until such time as the reviews were complete, and the above noted comments were addressed in a subsequent **Federal Register** notice. This notice satisfies that commitment by the Agency.

During the review of Grupo Behr's operations, it was determined that Grupo Behr operated beyond the scope of its operating authority. Grupo Behr had a lease agreement with a U.S.-based motor carrier, Maria Guadalupe Carrillo Cervantes (USDOT #1553781). However, per section 219(d) of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) [Pub. L. 106–159],[1] no Mexico-domiciled commercial zone carrier may lease vehicles for use beyond the commercial zone. Specifically, this statute reads:

> SEC. 219. FOREIGN MOTOR CARRIER PENALTIES AND DISQUALIFICATIONS. (d) LEASING.—Before the implementation of the land transportation provisions of the North American Free Trade Agreement, during any period in which a suspension, condition, restriction, or limitation imposed under section 13902(c) of title 49, United States Code, applies to a motor carrier (as defined in section 13902(e) of such title), that motor carrier may not lease a commercial motor vehicle to another motor carrier or a motor private carrier to transport property in the United States.

FMCSA issued a Notice of Violation (NOV) to Grupo Behr on November 9, 2011, citing Grupo Behr for operating beyond the scope of its operating authority by leasing vehicles to Maria Guadalupe Carillo Cervantes. Grupo Behr and Maria Guadalupe Carrillo Cervantes terminated this agreement on November 11, 2011.

The Agency required Grupo Behr to provide a corrective action plan to ensure that the company had ceased all leasing agreements, and would ensure no further transportation outside of the commercial zones. In June 2012, FMCSA conducted a focused investigation of Grupo Behr and confirmed that since the NOV, there are no inspections or evidence of Grupo Behr's commercial motor vehicles operating beyond the U.S. municipalities on the U.S.-Mexico border and their commercial zones. A copy of this focused review was added to the carrier's PASA document on the Pilot Program Web site.

Finally, during the focused investigation, FMCSA reviewed the mandatory elements of the PASA to determine if Grupo Behr remained in substantial compliance as required by Appendix A to Subpart B of 49 CFR part 365.

Two violations that were not found during the PASA were discovered during the focused investigation. Grupo Behr was using a driver vehicle inspection report (DVIR) form that listed the bumper; engine; cabin floor; fuel tank; cab; tires; drive shaft; muffler; chassis; rear door; air tanks; trailer; 5th wheel; and seal/tiedowns, but did not list service brakes, including the trailer brake connections; parking brake; steering mechanism; lighting devices and reflectors; horn; windshield wipers; rear vision mirrors; wheels and rims; and emergency equipment as required on the DVIR. The Agency subsequently received a corrective action letter from Grupo Behr committing to using a revised version of the DVIR. A copy of this letter is included with the PASA documentation on the pilot program Web site.

In addition, at the time of focused investigation, Grupo Behr could not provide adequate documentation of required alcohol testing. Grupo Behr addressed this issue in its corrective action letter. Since the closeout of the focused investigation, Grupo Behr provided sufficient information to the Agency to show that alcohol testing was done at the required 10 percent sampling rate. To demonstrate this, the focused review documentation was added to the initial PASA on the Agency's Web site to reflect the two reviews.

Grupo Behr has acknowledged affiliations with Logix Transport, Inc. (USDOT #2210821). Logix Transport, Inc. was originally granted operating authority as a U.S.-based motor carrier on December 8, 2011, but requested that the operating authority be converted to a property broker certificate. Logix Transport, Inc. was granted a property broker certificate on May 9, 2012. FMCSA has no evidence that Logix Transport, Inc. operated as a motor carrier in the United States.

Grupo Behr is also affiliated with the U.S. freight forwarder Pacific Customs Services (Grupo Logix), Freight Forwarder number 9476. FMCSA has no evidence that Pacific Customs Services (Grupo Logix) has operated as a motor carrier in the United States.

FMCSA also notes that Grupo Behr was affiliated with Logistics Transport dba Logix Transport USDOT 850185, Logistics Transport was found to have an unsatisfactory safety rating in March 2003 and has not operated since. This is well beyond the 3 years of history the Agency requests that applicants supply on their OP–1 (or OP–1MX) application for authority.

As noted above, Grupo Behr had a business relationship with Maria Guadalupe Carrillo Cervantes (USDOT 1553781), which currently has vehicle and driver OOS rates of 14.5% and 2%, respectively, based on the 24-month record ending December 14, 2012. Maria Guadalupe Carrillo Cervantes has no SMS BASICs above threshold levels In addition, FMCSA has established that the business relationship between

[1] Public Law 106–159, 113 Stat. 1748 (December 9, 1999); 49 U.S.C. 521 note.

Grupo Behr and Maria Guadalupe Carillo Cervantes no longer exists.

We are also aware that Grupo Behr is affiliated with Logix Transport, Inc. (USDOT number 2210821/MC number 767176). However, this enterprise carrier's authority is inactive.

Based on the original passed PASA, completion of the focused investigation, corrective action documentation, and improved out of service rates and SMS scores, FMCSA deems Grupo Behr's safety record sufficient for participation in the pilot program. Therefore, FMCSA will issue provisional operating authority for participation in the pilot program.

Issued On: January 29, 2013.

Anne S. Ferro,

Administrator.

[FR Doc. 2013–03672 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0340; FMCSA–2010–0354]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 12 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective March 1, 2013. Comments must be received on or before March 21, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0340; FMCSA–2010–0354], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 12 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 12 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Kreis C. Baldridge (TN)
Steven J. Clark (GA)
Thomas A. Crowell (NC)
Donald D. Daniels (MS)
Michael A. Fouch (NJ)
Carl A. Lohrbach (OH)
Jeffrey L. Olson (MN)
Donnie R. Riggs (AL)
James E. Savage (NV)
Randall S. Surber (WV)
Ernest W. Waff (VA)
Calvin J. Wallace, Jr. (NV)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 12 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (71 FR 63379; 72 FR 1050; 72 FR 180; 72 FR 9397; 73 FR 75803; 74 FR 6209; 74 FR 6211; 74 FR 980; 75 FR 72863; 76 FR 2190; 76 FR 4413; 76 FR 4414; 76 FR 9865). Each of these 12 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by March 21, 2013.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 12 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: January 31, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–03673 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Research and Innovative Technology Administration

[Docket Number: RITA–2008–0002]

Agency Information Collection Activity; Notice of Request for Public Comment and Submission to OMB for Information Collection: Confidential Close Call Reporting for Transit Rail System

AGENCY: Bureau of Transportation Statistics (BTS), Research and Innovative Technology Administration (RITA), U.S. Department of Transportation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, BTS announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for approval. On November 5, 2012, BTS published a **Federal Register** notice (77 FR 66502), allowing for a 60-day comment period on the ICR. The comment period closed on January 4, 2013. The agency received one comment, from the National Safety Council (NSC), Docket Comment RITA–2008–0002–0037, in response to the notice which supported the need for the information collection. The NSC comment stated they agreed with BTS that '' there is a need for proper data collection and analysis on close calls and other unsafe occurrences in the WMATA rail system.'' The purpose of this Notice is to allow 30 days for public comment to OMB on this collection from all interested individuals and organizations.

DATES: Written comments should be submitted by March 21, 2013.

FOR FURTHER INFORMATION CONTACT: Demetra V. Collia, Bureau of Transportation Statistics, Research and Innovative Technology Administration, U.S. Department of Transportation, Office of Advanced Studies, RTS–31, 1200 New Jersey Avenue SE., Washington, DC 20590–0001; Phone No. (202) 366–1610; Fax No. (202) 366–3383; email: *demetra.collia@dot.gov.*

Data Confidentiality Provisions: The confidentiality of Close Call data is protected under the BTS confidentiality statute (49 U.S.C. 6307) and the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2002 (Pub. L. 107–347, Title V). In accordance with these confidentiality statutes, only statistical and non-identifying data will be made publicly available through any reports. BTS will not release to WMATA/ATU or any other public or private entity any information that might reveal the identity of individuals or organizations mentioned in close call reports without explicit consent of the respondent.

SUPPLEMENTARY INFORMATION:

I. The Data Collection

The Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35; as amended) and 5 CFR part 1320 require each Federal agency to obtain OMB approval to initiate an information collection activity. BTS is seeking OMB approval for the following BTS information collection activity:

Title: Confidential Close Call Reporting for Transit Rail System

OMB Control Number: TBD.

Type of Review: Approval of data collection.

Respondents: WMATA rail employees.

Number of Respondents: 400 (per annum).

Estimated Time per Response: 1 hour.

Frequency: Intermittent for 5 years. (Reports are submitted when there is a qualifying event, i.e., when a close call occurs within WMATA's rail system).

Total Annual Burden: 400 hours.

ADDRESSES: The agency seeks public comments on its proposed information collection. Comments should address whether the information will have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways

to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street NW., Washington, DC 20503, Attention: BTS Desk Officer.

Issued on: February 11, 2013.

Patricia Hu,

Director, Bureau of Transportation Statistics, Research and Innovative Technology Administration.

[FR Doc. 2013–03694 Filed 2–15–13; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 334X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Calhoun County, AL

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F–*Exempt Abandonments* to abandon approximately 1.81 miles of rail line extending between former Eastern Alabama Railway milepost LAM 508.08 (near the intersection of W. 10th and Pipe Streets) and milepost LAM 509.89 (to the east of the eastern end of W. 30th Street), in Anniston, in Calhoun County, Ala. The line traverses United States Postal Service Zip Code 36201.

NSR has certified that: (1) No local traffic has moved over the line for at least two years; (2) no overhead traffic has moved over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 21, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by March 1, 2013. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 11, 2013, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: Robert A. Wimbish, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NSR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by February 22, 2013. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by February 19, 2014, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: February 13, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2013–03730 Filed 2–15–13; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1000 (Sub-No. 2X); Docket No. AB 290 (Sub-No. 344X)]

Georgia Southwestern Railroad, Inc.—Discontinuance of Service Exemption—in Chattahoochee, Marion, and Schley Counties, GA.; Central of Georgia Railroad Company—Discontinuance of Service Exemption—in Chattahoochee, Marion, and Schley Counties, GA

Central of Georgia Railroad Company (CGA) and Georgia Southwestern Railroad, Inc. (GSWR) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for each carrier to discontinue service over approximately 33 miles of rail line between milepost 12.0 at or near Ochillee and milepost 45.0 near Ellaville, in Chattahoochee, Marion, and Schley Counties, GA (the line). Applicants state that the line is a portion of a CGA-owned rail line extending between Ochillee and milepost 61.5 in Americus, GA, that is leased to GSWR. The line traverses United States Postal Service Zip Codes 31803, 31805, 31806, and 31905.

Applicants have certified that: (1) No local traffic has moved over the line for at least two years; (2) no overhead traffic has moved over the line for at least two years and overhead traffic, if any, could be transported over other rail routes; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant

within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective on March 21, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2) [1] must be filed by March 1, 2013.[2] Petitions to reopen must be filed by March 11, 2013, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: For CGA, Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037; for GSWR, Eric M. Hocky, Thorp Reed & Armstrong, LLP, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

If the notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: February 13, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2013–03726 Filed 2–15–13; 8:45 am]

BILLING CODE 4915–01–P

[1] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[2] Because applicants are seeking to discontinue service, not to abandon the line, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required here under 49 CFR 1105.6(c) and 49 CFR 1105.8(b), respectively.

FEDERAL REGISTER

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Part II

Small Business Administration

Semiannual Regulatory Agenda; Correction

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Semiannual Regulatory Agenda; Correction

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Semiannual Regulatory Agenda; correction.

SUMMARY: This document contains a correction to the Semiannual Regulatory Agenda which was published in the **Federal Register** on Thursday, January 8, 2013 (78 FR 1636). The regulatory agenda is a semiannual summary of all current and projected rulemakings, existing regulations, and completed actions of the SBA.

DATES: Effective on January 8, 2013.

FOR FURTHER INFORMATION CONTACT: Mariana A. Pardo, Director, Government Contracting and Business Development, HUBZone Program, at (202) 205–2985, or *mariana.pardo@sba.gov*.

SUPPLEMENTARY INFORMATION: The Semiannual Regulatory Agenda provides the public with information about SBA's regulatory activity. SBA invites the public to submit comments on any aspect of this Agenda. SBA expects that providing early information about pending regulatory activities would encourage more effective public participation in the process. As published, the Semiannual Regulatory Agenda contains a sentence which was incorrect. The sentence is revised to avoid public confusion.

In Semiannual Regulatory Agenda **Federal Register** Document 2012–31507 published on January 8, 2013, (78 FR 1636) make the following correction: On page 1638, in the third column, in section 388 Small Business HUBZone Program, remove the third sentence, ''These planned amendments will serve to streamline the HUBZone program and ease program eligibility requirements, particularly those that the small business concerns perceive to be burdensome.'' and add a new third sentence to read as follows: ''The amendments will make it easier for participants to comply with the program requirements and enable them to maximize the benefits afforded by participation.''

Dated: February 12, 2013.

Mariana A. Pardo,

Director, Office of HUBZone.

[FR Doc. 2013–03766 Filed 2–15–13; 8:45 am]

BILLING CODE 8025–01–P

FEDERAL REGISTER

Vol. 78 Tuesday,
No. 33 February 19, 2013

Part III

The President

Executive Order 13636—Improving Critical Infrastructure Cybersecurity

Federal Register
Vol. 78, No. 33
Tuesday, February 19, 2013

Presidential Documents

Title 3—

The President

Executive Order 13636 of February 12, 2013

Improving Critical Infrastructure Cybersecurity

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Policy.* Repeated cyber intrusions into critical infrastructure demonstrate the need for improved cybersecurity. The cyber threat to critical infrastructure continues to grow and represents one of the most serious national security challenges we must confront. The national and economic security of the United States depends on the reliable functioning of the Nation's critical infrastructure in the face of such threats. It is the policy of the United States to enhance the security and resilience of the Nation's critical infrastructure and to maintain a cyber environment that encourages efficiency, innovation, and economic prosperity while promoting safety, security, business confidentiality, privacy, and civil liberties. We can achieve these goals through a partnership with the owners and operators of critical infrastructure to improve cybersecurity information sharing and collaboratively develop and implement risk-based standards.

Sec. 2. *Critical Infrastructure.* As used in this order, the term critical infrastructure means systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

Sec. 3. *Policy Coordination.* Policy coordination, guidance, dispute resolution, and periodic in-progress reviews for the functions and programs described and assigned herein shall be provided through the interagency process established in Presidential Policy Directive–1 of February 13, 2009 (Organization of the National Security Council System), or any successor.

Sec. 4. *Cybersecurity Information Sharing.* (a) It is the policy of the United States Government to increase the volume, timeliness, and quality of cyber threat information shared with U.S. private sector entities so that these entities may better protect and defend themselves against cyber threats. Within 120 days of the date of this order, the Attorney General, the Secretary of Homeland Security (the ''Secretary''), and the Director of National Intelligence shall each issue instructions consistent with their authorities and with the requirements of section 12(c) of this order to ensure the timely production of unclassified reports of cyber threats to the U.S. homeland that identify a specific targeted entity. The instructions shall address the need to protect intelligence and law enforcement sources, methods, operations, and investigations.

(b) The Secretary and the Attorney General, in coordination with the Director of National Intelligence, shall establish a process that rapidly disseminates the reports produced pursuant to section 4(a) of this order to the targeted entity. Such process shall also, consistent with the need to protect national security information, include the dissemination of classified reports to critical infrastructure entities authorized to receive them. The Secretary and the Attorney General, in coordination with the Director of National Intelligence, shall establish a system for tracking the production, dissemination, and disposition of these reports.

(c) To assist the owners and operators of critical infrastructure in protecting their systems from unauthorized access, exploitation, or harm, the Secretary, consistent with 6 U.S.C. 143 and in collaboration with the Secretary of

Defense, shall, within 120 days of the date of this order, establish procedures to expand the Enhanced Cybersecurity Services program to all critical infrastructure sectors. This voluntary information sharing program will provide classified cyber threat and technical information from the Government to eligible critical infrastructure companies or commercial service providers that offer security services to critical infrastructure.

(d) The Secretary, as the Executive Agent for the Classified National Security Information Program created under Executive Order 13549 of August 18, 2010 (Classified National Security Information Program for State, Local, Tribal, and Private Sector Entities), shall expedite the processing of security clearances to appropriate personnel employed by critical infrastructure owners and operators, prioritizing the critical infrastructure identified in section 9 of this order.

(e) In order to maximize the utility of cyber threat information sharing with the private sector, the Secretary shall expand the use of programs that bring private sector subject-matter experts into Federal service on a temporary basis. These subject matter experts should provide advice regarding the content, structure, and types of information most useful to critical infrastructure owners and operators in reducing and mitigating cyber risks.

Sec. 5. *Privacy and Civil Liberties Protections.* (a) Agencies shall coordinate their activities under this order with their senior agency officials for privacy and civil liberties and ensure that privacy and civil liberties protections are incorporated into such activities. Such protections shall be based upon the Fair Information Practice Principles and other privacy and civil liberties policies, principles, and frameworks as they apply to each agency's activities.

(b) The Chief Privacy Officer and the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security (DHS) shall assess the privacy and civil liberties risks of the functions and programs undertaken by DHS as called for in this order and shall recommend to the Secretary ways to minimize or mitigate such risks, in a publicly available report, to be released within 1 year of the date of this order. Senior agency privacy and civil liberties officials for other agencies engaged in activities under this order shall conduct assessments of their agency activities and provide those assessments to DHS for consideration and inclusion in the report. The report shall be reviewed on an annual basis and revised as necessary. The report may contain a classified annex if necessary. Assessments shall include evaluation of activities against the Fair Information Practice Principles and other applicable privacy and civil liberties policies, principles, and frameworks. Agencies shall consider the assessments and recommendations of the report in implementing privacy and civil liberties protections for agency activities.

(c) In producing the report required under subsection (b) of this section, the Chief Privacy Officer and the Officer for Civil Rights and Civil Liberties of DHS shall consult with the Privacy and Civil Liberties Oversight Board and coordinate with the Office of Management and Budget (OMB).

(d) Information submitted voluntarily in accordance with 6 U.S.C. 133 by private entities under this order shall be protected from disclosure to the fullest extent permitted by law.

Sec. 6. *Consultative Process.* The Secretary shall establish a consultative process to coordinate improvements to the cybersecurity of critical infrastructure. As part of the consultative process, the Secretary shall engage and consider the advice, on matters set forth in this order, of the Critical Infrastructure Partnership Advisory Council; Sector Coordinating Councils; critical infrastructure owners and operators; Sector-Specific Agencies; other relevant agencies; independent regulatory agencies; State, local, territorial, and tribal governments; universities; and outside experts.

Sec. 7. *Baseline Framework to Reduce Cyber Risk to Critical Infrastructure.* (a) The Secretary of Commerce shall direct the Director of the National

Institute of Standards and Technology (the ''Director'') to lead the development of a framework to reduce cyber risks to critical infrastructure (the ''Cybersecurity Framework''). The Cybersecurity Framework shall include a set of standards, methodologies, procedures, and processes that align policy, business, and technological approaches to address cyber risks. The Cybersecurity Framework shall incorporate voluntary consensus standards and industry best practices to the fullest extent possible. The Cybersecurity Framework shall be consistent with voluntary international standards when such international standards will advance the objectives of this order, and shall meet the requirements of the National Institute of Standards and Technology Act, as amended (15 U.S.C. 271 *et seq.*), the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113), and OMB Circular A–119, as revised.

(b) The Cybersecurity Framework shall provide a prioritized, flexible, repeatable, performance-based, and cost-effective approach, including information security measures and controls, to help owners and operators of critical infrastructure identify, assess, and manage cyber risk. The Cybersecurity Framework shall focus on identifying cross-sector security standards and guidelines applicable to critical infrastructure. The Cybersecurity Framework will also identify areas for improvement that should be addressed through future collaboration with particular sectors and standards-developing organizations. To enable technical innovation and account for organizational differences, the Cybersecurity Framework will provide guidance that is technology neutral and that enables critical infrastructure sectors to benefit from a competitive market for products and services that meet the standards, methodologies, procedures, and processes developed to address cyber risks. The Cybersecurity Framework shall include guidance for measuring the performance of an entity in implementing the Cybersecurity Framework.

(c) The Cybersecurity Framework shall include methodologies to identify and mitigate impacts of the Cybersecurity Framework and associated information security measures or controls on business confidentiality, and to protect individual privacy and civil liberties.

(d) In developing the Cybersecurity Framework, the Director shall engage in an open public review and comment process. The Director shall also consult with the Secretary, the National Security Agency, Sector-Specific Agencies and other interested agencies including OMB, owners and operators of critical infrastructure, and other stakeholders through the consultative process established in section 6 of this order. The Secretary, the Director of National Intelligence, and the heads of other relevant agencies shall provide threat and vulnerability information and technical expertise to inform the development of the Cybersecurity Framework. The Secretary shall provide performance goals for the Cybersecurity Framework informed by work under section 9 of this order.

(e) Within 240 days of the date of this order, the Director shall publish a preliminary version of the Cybersecurity Framework (the ''preliminary Framework''). Within 1 year of the date of this order, and after coordination with the Secretary to ensure suitability under section 8 of this order, the Director shall publish a final version of the Cybersecurity Framework (the ''final Framework'').

(f) Consistent with statutory responsibilities, the Director will ensure the Cybersecurity Framework and related guidance is reviewed and updated as necessary, taking into consideration technological changes, changes in cyber risks, operational feedback from owners and operators of critical infrastructure, experience from the implementation of section 8 of this order, and any other relevant factors.

Sec. 8. *Voluntary Critical Infrastructure Cybersecurity Program.* (a) The Secretary, in coordination with Sector-Specific Agencies, shall establish a voluntary program to support the adoption of the Cybersecurity Framework by owners and operators of critical infrastructure and any other interested entities (the ''Program'').

(b) Sector-Specific Agencies, in consultation with the Secretary and other interested agencies, shall coordinate with the Sector Coordinating Councils to review the Cybersecurity Framework and, if necessary, develop implementation guidance or supplemental materials to address sector-specific risks and operating environments.

(c) Sector-Specific Agencies shall report annually to the President, through the Secretary, on the extent to which owners and operators notified under section 9 of this order are participating in the Program.

(d) The Secretary shall coordinate establishment of a set of incentives designed to promote participation in the Program. Within 120 days of the date of this order, the Secretary and the Secretaries of the Treasury and Commerce each shall make recommendations separately to the President, through the Assistant to the President for Homeland Security and Counterterrorism and the Assistant to the President for Economic Affairs, that shall include analysis of the benefits and relative effectiveness of such incentives, and whether the incentives would require legislation or can be provided under existing law and authorities to participants in the Program.

(e) Within 120 days of the date of this order, the Secretary of Defense and the Administrator of General Services, in consultation with the Secretary and the Federal Acquisition Regulatory Council, shall make recommendations to the President, through the Assistant to the President for Homeland Security and Counterterrorism and the Assistant to the President for Economic Affairs, on the feasibility, security benefits, and relative merits of incorporating security standards into acquisition planning and contract administration. The report shall address what steps can be taken to harmonize and make consistent existing procurement requirements related to cybersecurity.

Sec. 9. *Identification of Critical Infrastructure at Greatest Risk.* (a) Within 150 days of the date of this order, the Secretary shall use a risk-based approach to identify critical infrastructure where a cybersecurity incident could reasonably result in catastrophic regional or national effects on public health or safety, economic security, or national security. In identifying critical infrastructure for this purpose, the Secretary shall use the consultative process established in section 6 of this order and draw upon the expertise of Sector-Specific Agencies. The Secretary shall apply consistent, objective criteria in identifying such critical infrastructure. The Secretary shall not identify any commercial information technology products or consumer information technology services under this section. The Secretary shall review and update the list of identified critical infrastructure under this section on an annual basis, and provide such list to the President, through the Assistant to the President for Homeland Security and Counterterrorism and the Assistant to the President for Economic Affairs.

(b) Heads of Sector-Specific Agencies and other relevant agencies shall provide the Secretary with information necessary to carry out the responsibilities under this section. The Secretary shall develop a process for other relevant stakeholders to submit information to assist in making the identifications required in subsection (a) of this section.

(c) The Secretary, in coordination with Sector-Specific Agencies, shall confidentially notify owners and operators of critical infrastructure identified under subsection (a) of this section that they have been so identified, and ensure identified owners and operators are provided the basis for the determination. The Secretary shall establish a process through which owners and operators of critical infrastructure may submit relevant information and request reconsideration of identifications under subsection (a) of this section.

Sec. 10. *Adoption of Framework.* (a) Agencies with responsibility for regulating the security of critical infrastructure shall engage in a consultative process with DHS, OMB, and the National Security Staff to review the preliminary Cybersecurity Framework and determine if current cybersecurity regulatory requirements are sufficient given current and projected risks. In making such determination, these agencies shall consider the identification

of critical infrastructure required under section 9 of this order. Within 90 days of the publication of the preliminary Framework, these agencies shall submit a report to the President, through the Assistant to the President for Homeland Security and Counterterrorism, the Director of OMB, and the Assistant to the President for Economic Affairs, that states whether or not the agency has clear authority to establish requirements based upon the Cybersecurity Framework to sufficiently address current and projected cyber risks to critical infrastructure, the existing authorities identified, and any additional authority required.

(b) If current regulatory requirements are deemed to be insufficient, within 90 days of publication of the final Framework, agencies identified in subsection (a) of this section shall propose prioritized, risk-based, efficient, and coordinated actions, consistent with Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review), and Executive Order 13609 of May 1, 2012 (Promoting International Regulatory Cooperation), to mitigate cyber risk.

(c) Within 2 years after publication of the final Framework, consistent with Executive Order 13563 and Executive Order 13610 of May 10, 2012 (Identifying and Reducing Regulatory Burdens), agencies identified in subsection (a) of this section shall, in consultation with owners and operators of critical infrastructure, report to OMB on any critical infrastructure subject to ineffective, conflicting, or excessively burdensome cybersecurity requirements. This report shall describe efforts made by agencies, and make recommendations for further actions, to minimize or eliminate such requirements.

(d) The Secretary shall coordinate the provision of technical assistance to agencies identified in subsection (a) of this section on the development of their cybersecurity workforce and programs.

(e) Independent regulatory agencies with responsibility for regulating the security of critical infrastructure are encouraged to engage in a consultative process with the Secretary, relevant Sector-Specific Agencies, and other affected parties to consider prioritized actions to mitigate cyber risks for critical infrastructure consistent with their authorities.

Sec. 11. *Definitions.* (a) ''Agency'' means any authority of the United States that is an ''agency'' under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(b) ''Critical Infrastructure Partnership Advisory Council'' means the council established by DHS under 6 U.S.C. 451 to facilitate effective interaction and coordination of critical infrastructure protection activities among the Federal Government; the private sector; and State, local, territorial, and tribal governments.

(c) ''Fair Information Practice Principles'' means the eight principles set forth in Appendix A of the National Strategy for Trusted Identities in Cyberspace.

(d) ''Independent regulatory agency'' has the meaning given the term in 44 U.S.C. 3502(5).

(e) ''Sector Coordinating Council'' means a private sector coordinating council composed of representatives of owners and operators within a particular sector of critical infrastructure established by the National Infrastructure Protection Plan or any successor.

(f) ''Sector-Specific Agency'' has the meaning given the term in Presidential Policy Directive–21 of February 12, 2013 (Critical Infrastructure Security and Resilience), or any successor.

Sec. 12. *General Provisions.* (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations. Nothing in this order shall be construed to provide an agency with authority for regulating the security of critical infrastructure in addition to or to a greater

extent than the authority the agency has under existing law. Nothing in this order shall be construed to alter or limit any authority or responsibility of an agency under existing law.

(b) Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(c) All actions taken pursuant to this order shall be consistent with requirements and authorities to protect intelligence and law enforcement sources and methods. Nothing in this order shall be interpreted to supersede measures established under authority of law to protect the security and integrity of specific activities and associations that are in direct support of intelligence and law enforcement operations.

(d) This order shall be implemented consistent with U.S. international obligations.

(e) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
February 12, 2013.

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